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A COLLECTION

OF

THE ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR

1889.

1889

CALCUTTA:
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1890.

TITLES OF ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1889.

I. An Act for the Protection of Coinage and other purposes.

II. „ to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

III. „ to provide a Village-system and amend the law relating to Rural Police in Lower Burma.

IV. „ to amend the Law relating to Fraudulent Marks on Merchandise.

V. „ to abolish the Office of Coroner of Madras.

VI. „ to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.

VII. „ to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

VIII. „ to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.

IX. „ to authorise the imposition of a Patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting Kanungos and Patwaris in those Provinces.

X. „ to consolidate and amend the law relating to Ports and Port-charges.

XI. „ to consolidate and amend the law relating to the Courts, and declare the effect of certain enactments, in Lower Burma.

XII. „ to amend the Indian Merchandise Marks Act, 1889.

XIII. „ to amend the law relating to Cantonments.

XIV. „ to indemnify certain witnesses.

XV. „ to prevent the Disclosure of Official Documents and Information.

XVI. An Act to amend the Central Provinces Land-revenue Act, 1881, and the Central Provinces Local Self-government Act, 1883.

XVII. ,, to amend the Central Provinces Tenancy Act, 1883.

XVIII. ,, to make better provision for the Organization and Administration of Municipalities in the Central Provinces.

XIX. ,, to make better provision for Sanitation in Villages in the Central Provinces.

XX. ,, to amend Act XXXVI of 1858.

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TO THE

ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL IN THE YEAR 1889.

[NOTE.—Entries to which the abbreviations Aj., Ara. Hills, As., Ben., Bom., C. P., L. B., Mad., N., O., P., U. B., are attached refer only to Ajmere, the Arakan Hills District, Assam, Bengal, Bombay, the Central Provinces, Lower Burma, Madras, the North-Western Provinces, Oudh, the Punjab, or Upper Burma, as the case may be.]

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PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.—NO. 300 L. D.—21-1-90.—3,500.

ACT No. I OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st February, 1889.)

An Act for the Protection of Coinage and other Purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons of pieces of metal for use as money;

And whereas it is also expedient to amend section XLV of 1860. 28 of the Indian Penal Code;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Metal Tokens Act, 1889.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definition.

2. In this Act "issue" means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 VIII of 1878. of the Sea Customs Act, 1878.

Prohibition of making by private persons of pieces of metal to be used as money.

3. No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council.

Penalty for unlawful making, issue or possession of such pieces.

4. (*1*) In either of the following cases, namely:—

(*a*) if any person makes in contravention of the last foregoing section, or issues or attempts to

[*Price one anna and nine pies.*]

to issue, any such piece as is mentioned in that section,

(*b*) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished,—

(*i*) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both; or,

(*ii*) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(*2*) If any person is convicted of an offence under sub-section (*1*), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody or control.

(*3*) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

Cognizance of offences under the last foregoing section.

5. (*1*) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

(*2*) Notwithstanding anything in the Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Subdivisional Magistrate, without the previous sanction of the District Magistrate or Subdivisional Magistrate. X of 1882.

6. If

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

6. If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (*3*) of section 4 and sub-section (*1*) of section 5, or of either sub-section, in relation to the offence of making such pieces shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

VIII of 1878.

Addition to section 98, Act X, 1882.

X of 1882.

7. To section 98 of the Code of Criminal Procedure, 1882, the following shall be added, namely :—

"The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,

I of 1889.

VIII of 1878.

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act."

8. (*1*) No

Prohibition of receipt by local authorities and railways as money of metal which is not coin.

8. (*1*) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority. XLV of 1860.

(*2*) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

Amendment of section 28 of the Indian Penal Code.

9. For the *Explanation* to section 28 of the Indian Penal Code the following shall be substituted, namely:— XLV of 1860

"*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

"*Explanation 2.*—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised."

Government of India Central Printing Office.—No. 413 L. D.—8-2-89.—4,400.—A. E. deS.

ACT No. II OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 15th February, 1889.)

An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Measures of Length Act, 1889.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on such day as the Governor General in Council may appoint in this behalf.

Standard yard.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

Measure for determining length of standard yard.

3. A copy, approved by the Governor General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

Standard foot and inch.

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.

5. Any

[*Price one anna and three pies.*]

Presumption in favour of accuracy of certified measures.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

Inspection of certified measures by the public.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

Certified measures to be kept by authorities required by existing enactments to keep measures of length.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

Ben. Act IV of 1866.

Ben. Act II of 1888.

Mad. Act III of 1888.

Bom. Act III of 1888.

Government of India Central Printing Office.—No. 461 L., D.—18-2-89.—4,400.—F. J. B.

ACT No. III OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd February, 1889.)

An Act to provide a Village-system and amend the law relating to Rural Police in Lower Burma.

WHEREAS it is expedient to provide a village-system and amend the law relating to rural police in Lower Burma; It is hereby enacted as follows:—

Title, extent, commencement and repeal.

1. (*1*) This Act may be called the Lower Burma Village Act, 1889.

(*2*) It extends to the whole of Lower Burma; and

(*3*) This section and sections 14 to 23 (both inclusive) shall come into force at once.

(*4*) The other sections shall not come into force in any part of Lower Burma until the Local Government extends them thereto.

(*5*) Such extension shall be by notification in the Burma Gazette, describing the part of Lower Burma to which the sections are extended and the day on which they are to take effect therein.

(*6*) On and from that day sections 12 to 21 (both inclusive) of the Burma District Cesses and Rural Police Act, 1880, shall be repealed as regards that part.

II of 1880.

Definition.

2. (*1*) For the purposes of this Act "village" includes—

(*a*) village-lands,

(*b*) rivers passing through or by, and lakes adjacent to, those lands, and

(*c*) a group of villages.

(*2*) The

[*Price three annas and nine pies.*]

(*2*) The Deputy Commissioner may determine the limits of a village for the purposes of this Act.

Appointment of headman.

3. (*1*) The Deputy Commissioner shall appoint a headman in every village.

(*2*) In appointing a headman the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(*3*) When in any village there are two or more headmen, the Deputy Commissioner shall decide which of them is to be the headman for the purposes of this Act, and, with the previous sanction of the Commissioner, may make rules to define and regulate their relations to each other.

(*4*) The Deputy Commissioner may appoint a rural policeman or more than one such policeman in any village.

Substitution of new clause for clause (*a*) of section 9, Act II of 880.

4. For clause (*a*) of section 9 of the Burma District Cesses and Rural Police Act, 1880, the following shall be substituted, namely :— II of 1880.

"(*a*) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Village Act, 1889; ". III of 1889.

Substitution of new section for section 45 of the Code of Criminal Procedure.

5. For section 45 of the Code of Criminal Procedure, 1882, the following shall be substituted, namely :— X of 1882.

Headman bound to report certain matters.

"45. (*1*) A headman appointed under the Lower Burma Village Act, 1889, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious

notorious receiver or vendor of stolen property in his village;

(*b*) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or attempt or intention to commit, within his village any of the following offences, namely:—

(i) murder,

(ii) culpable homicide not amounting to murder,

(iii) dacoity,

(iv) robbery,

XI of 1878. (v) offence against the Indian Arms Act, 1878, and

(vi) any other offence respecting which the Deputy Commissioner by general or special order, made with the previous sanction of the Commissioner, directs him to communicate information;

(*d*) the occurrence in his village of any sudden or unnatural death, or of any death under suspicious circumstances.

"(*2*) In sub-section (*1*) 'village' has the meaning assigned to that word in the Lower Burma Village
III of 1889. Act, 1889."

Duties of headman.

6. (*1*) The headman of a village shall be bound—

(*a*) to investigate every offence respecting which he is required by section 45 of the Code of
X of 1882. Criminal Procedure, 1882, to communicate information;

(*b*) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of

of any such offence, and to recover, if possible, any property taken by any such person;

(*c*) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself;

(*d*) to forward, as soon as may be, to the nearest police-station or military post, any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;

(*e*) to resist any unlawful attack made upon the village;

(*f*) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct;

(*g*) on the written order of the Deputy Commissioner, or other Magistrate not below the rank of Myo-ôk, to collect and furnish on payment supplies of food or carriage for troops or police posted in or near, or marching through, the village;

(*h*) on the requisition of any Magistrate not below the rank of Myo-ôk, to furnish labourers for the making or repair of roads, embankments or other public works;

(*i*) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein;

(*j*) to allot unoccupied land within the village for cultivation or house-building up to such limit and on such conditions as the Deputy Commissioner may direct;

(*k*) if so ordered, and in accordance with such rules as may be made in this behalf by the Commissioner with the previous sanction of the

the Local Government, to register all births and deaths which take place within the village, and any other vital statistics which may be prescribed by such rules;

Section 6 the f

"(*l*) to

(*l*) to take such measures for the prevention of public nuisances and for the general sanitation of the village as may be prescribed in any rules made in this behalf by the Commissioner with the previous sanction of the Local Government;

(*m*) to supply to the best of his ability any local information which any Magistrate or officer of police may require; and,

(*n*) generally, to assist all officers of the Government in the execution of their public duties.

(*2*) Every rural policeman shall be bound to perform such duties similar to those imposed on a headman by sub-section (*1*) as may be imposed upon him by rules made by the Local Government in this behalf.

Disposal of petty criminal cases by headman.

7. (*1*) If any of the offences mentioned in the next following sub-section is committed in a village, the headman of the village may, on complaint made to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof.

(*2*) The offences referred to in sub-section (*1*) are the following, namely:—

(*a*) assault;

(*b*) theft when the value of the property stolen does not exceed five rupees;

(*c*) mischief when the mischief causes damage to an amount not exceeding five rupees;

(*d*) criminal trespass; and

(*e*) any other offence which the Local Government may, by notification in the Burma Gazette,

Gazette, declare to be triable by a headman under sub-section (*1*).

(*3*) If the accused is convicted, he may be sentenced to fine not exceeding five rupees or, if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(*4*) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case so triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to confinement for a term not exceeding fifteen days in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(*5*) Proceedings under this section shall be held in the presence of the complainant and the accused.

(*6*) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

(*7*) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(*8*) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(*9*) A fee of one rupee may be levied on a complaint under sub-section (*1*) and of two rupees on a complaint under sub-section (*4*).

(*10*) No other fee shall be leviable in any case under this section.

(*11*) If the accused is convicted, the amount of any

any fee paid in respect of the complaint shall be recovered from him as if it were a fine imposed under this Act and be repaid to the complainant.

Penalty for neglect of duty or abuse of authority by headman or rural policeman.

8. If a headman or a rural policeman neglects to perform any of the duties imposed upon him by this Act or any rule thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, he shall be liable, by order of the Deputy Commissioner, to pay a fine not exceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

Obligation on villagers to aid headman and rural policeman.

9. (*1*) Every person residing in a village shall, on the requisition of the headman or of a rural policeman, be bound to assist him in the execution of his public duties.

(*2*) If any such person refuses or neglects to comply with the requisition of the headman or rural policeman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, by order of the headman, to fine not exceeding five rupees, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

Civil jurisdiction of headman.

10. (*1*) The Local Government may, by notification in the Burma Gazette, invest any headman with the powers of a Civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within his village, and may, by general or special order notified in the Burma Gazette, specify the classes, and the value not exceeding twenty rupees, of the suits which such headman may try.

(*2*) The Local Government may at any time cancel or vary any such notification or order.

(*3*) In any suit tried in exercise of powers conferred under sub-section (*1*), the decision of the headman shall,

shall, subject to revision by such authority as the Local Government may appoint in this behalf, be final.

(*4*) Notwithstanding anything in the Code of Civil Procedure, a person shall not be bound to institute a suit in the Court of a headman. XIV of 1882.

(*5*) A fee of ten per centum of the value of the suit shall be paid on its institution in the Court of a headman, and no other fee shall be paid for the issue of processes or otherwise.

Notification of residence of strangers in villages.

11. (*1*) If any person comes into a village of which he is not a resident, he or the person, if any, in whose house he is living shall, within twelve hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(*2*) The departure from a village of a person whose arrival has been reported under sub-section (*1*) shall also be reported by the person, if any, in whose house he has been living.

Prohibition of unauthorized settlement of strangers in villages.

12. A person who is not a resident of a village shall not build any house, hut or enclosure, or take up his residence in the village, without the permission of the headman.

Penalty for breach of orders under immediately preceding sections.

13. If a person contravenes the provisions of section 11 or section 12, he shall be punished, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

Fine on villagers accessory to crim

14. (*1*) The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village if after enquiry he has found—

(*a*) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal;

(*b*) that they have suppressed or combined to suppress evidence in any criminal case;

(*c*) that

(*c*) that stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(*2*) In either of the following cases, namely:—

(*a*) when a fine is imposed on the ground stated in clause (*a*) or in clause (*b*) of sub-section (*1*), and the offence of which the criminal is accused, or to which the criminal case relates, is mischief by fire, dacoity, robbery or cattle-theft,

(*b*) when a fine is imposed on the ground stated in clause (*c*) of sub-section (*1*),

a sum not exceeding the amount of any damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property.

Fine on villagers where homicide is committed or attempted.

15. When within any village a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(*a*) had not an opportunity of preventing the offence or arresting the offender, or

(*b*) have used all reasonable means to bring the offender to justice.

Power to require residents to remove from villages.

16. (*1*) When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

(*2*) If a person disobeys a requisition under sub-section (*1*), he shall be punished, on conviction by a Magistrate,

Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Mode of recovering fines.

17. (*1*) A fine imposed under this Act may be recovered as if it were an arrear of land-revenue.

(*2*) A fine imposed under section 14 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-tax payable by the residents of the village or to the land-revenue payable in respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

Provisions with respect to emoluments of headmen and rural policemen.

18. (*1*) The emoluments of a headman or rural policeman shall not be liable to attachment in execution of a decree or order of any Civil Court.

(*2*) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void.

(*3*) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may, upon such terms, if any, as to compensation for improvements or otherwise as he thinks fit, enforce the surrender of the land to the person for the time being holding that office.

Protection to headman or rural policeman in execution of his duty.

19. No complaint against a headman or rural policeman of any act or omission punishable under this Act shall be entertained by any Court unless the prosecution is instituted by order of or under authority from the Deputy Commissioner.

Finality of orders.

20. (*1*) An appeal shall not lie from any order made under this Act.

(*2*) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(*3*) Save as provided by this section, an order made

made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

(*4*) The word "order" in this section does not include a decision of a headman in a suit tried in exercise of powers conferred under section 10, sub-section (*1*).

Delegation of powers of Deputy Commissioner to Assistant Commissioner.

21. The Local Government may authorize any Assistant Commissioner, by name or by virtue of his office, to exercise in any district or part of a district all or any of the powers of the Deputy Commissioner under this Act.

Power to make rules.

22. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

(*a*) conferring on rural policemen any powers or privileges which may be exercised or are enjoyed by police-officers under any enactment for the time being in force;

(*b*) prescribing the duties to be performed by rural policemen, including any duties imposed upon police-officers by any enactment for the time being in force;

(*c*) regulating the exercise, enjoyment and performance of those powers, privileges and duties by rural policemen;

(*d*) regulating the emoluments of headmen and rural policemen;

(*e*) prescribing the procedure to be observed by a headman trying a suit in exercise of powers conferred under section 10, sub-section (*1*), the record which he is to make of the suit and the mode in which that record is to be disposed of, the powers which he may exercise as regards the costs of the suit and of any proceeding arising thereout, the manner in which a decree or order made by him may be executed by himself, and the manner, circumstances and conditions in and on which such

such a decree or order may be sent for execution to, and be executed by, another headman or a Civil Court;

(*f*) for the disposal of fees levied under section 7, sub-section (*9*), and section 10, sub-section (*5*); and,

(*g*) generally, for carrying into effect the purposes of this Act.

(*2*) All such rules shall be published in the Burma Gazette.

Effect of Act.

23. This Act shall take effect notwithstanding anything in any enactment for the time being in force.

Government of India Central Printing Office.—No. 484 L. D —1-3-89 —4,400.—A. L. deS.

ACT No. IV OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st March, 1889.)

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Indian Merchandise Marks Act, 1889.

(*2*) It extends to the whole of British India; and, subject to the provision of the last section ~~of this Act~~,

(*3*) It shall come into force on the first day of April, 1889.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

XLV of 1860.

(*2*) "trade description" means any description, statement or other indication, direct or indirect,—

(*a*) as to the number, quantity, measure, gauge or weight of any goods, or

(*b*) as to the place or country in which, or the time at which, any goods were made or produced, or

(*c*) as to the mode of manufacturing or producing any goods, or

(*d*) as

[*Price four annas and three pies.*]

(*d*) as to the material of which any goods are composed, or

(*e*) as to any goods being the subject of an existing patent, privilege or copyright;

and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

(*3*) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(*4*) "goods" means anything which is the subject of trade or manufacture: and

(*5*) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely:— XLV of 1860.

"*Of Trade, Property and Other Marks.*

Trade mark.

"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks

marks kept under the Patents, Designs and Trade
46 & 47 Vict., c. 57. Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

Property mark.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Using a false trade mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false property mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

Punishment for using a false trade mark or property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

"484. Whoever

Counterfeiting a mark used by a public servant.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or possession of any instrument for counterfeiting a trade mark or property mark.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Selling goods marked with a counterfeit trade mark or property mark.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Trade Descriptions.

Provisions supplemental to the definition of false trade description.

4. (*1*) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and

and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(*2*) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

(*a*) not being a trade mark, or part of a trade mark, and

(*b*) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorized the use of such name or initials.

(*3*) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application of trade descriptions.

5. (*1*) A person shall be deemed to apply a trade description to goods who—

(*a*) applies it to the goods themselves, or

(*b*) applies it to any covering label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(*c*) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or

(*d*) uses

(*d*) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade description.

(*2*) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(*3*) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

Penalty for applying a false trade description.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Penalty for selling goods to which a false trade description is applied.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend

extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

Unintentional contravention of the law relating to marks and descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves— XLV of 1860.

(*a*) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(*b*) that he took reasonable precautions against committing the offence charged, and

(*c*) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(*d*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose

whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

Forfeiture of goods.

9. (*1*) When a person is convicted under section XLV of 1860. 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(*2*) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(*3*) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act, 1878.

Amendment of section 18,

10. (*1*) For clause (*d*) of section 18 of the Sea Customs

(*Amendment of the Sea Customs Act, 1878.—Section 10.*)

Act VIII of 1878. Customs Act, 1878, the following shall be substituted, namely:— VIII of 1878.

"(*d*) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889: XLV of 1860. IV of 1889.

(*e*) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark."

(*2*) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (*1*), the following shall be added, namely:—

"(*f*) piece-goods, such as are ordinarily sold by length or by the piece, which—

(i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such

such a yard, according to the real length of the piece, and

(ii) have been manufactured beyond the limits of India, or,

(iii) having been manufactured within those limits have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881.

XV of 1881.

Addition of a section after section 19, Act VIII of 1878.

VIII of 1878.

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely :—

"19A. (*1*) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(*2*) The Governor General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(*3*) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character,

character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(*4*) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(*5*) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(*6*) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burma Gazettes."

Stamping of Length of Piece-goods manufactured in British India.

Stamping of length of piece-goods manufactured in British India.

12. (*1*) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed XV of 1881. from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(*2*) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (*1*), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental

Supplemental Provisions.

Evidence of origin of goods imported by sea.

13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be *primâ facie* evidence of the place or country in which the goods were made or produced.

VIII of 1878.

Costs of defence or prosecution.

14. (*1*) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

XLV of 1860.

(*2*) Such costs shall, on application to the Court, be recoverable as if they were a fine.

Limitation of prosecution.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

Authority of the Governor General in Council to issue instructions as to administration of this Act.

16. (*1*) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(*2*) Instructions under sub-section (*1*) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognized by Criminal Courts as permissible in the case of any goods.

Implied warranty on sale of marked goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit

counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

Savings.

18. (*1*) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(*2*) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(*3*) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Transitory Provision.

Date of commencement of this Act as regards unstamped piece-goods.

19. The prohibition of the bringing into British India of such piece-goods as are described in clause (*f*) of section 18 of the Sea Customs Act, 1878, as amended by this Act, shall not take effect till the first day of August, 1889, and the provisions of section 12 shall, as regards piece-goods made up in bales in a factory before the first day of April, 1889, remain in abeyance till the first day of July, 1889.

X of 1891.

VII

Government of India Central Printing Office.—No. 7 L. D.—9-3-89.—5,000.—F. J.

ACT No. V OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st March, 1889.)

An Act to abolish the Office of Coroner of Madras.

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871, the Coroners Act, 1881, and the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

IV of 1871. X of 1881. X of 1882.

Commencement.

1. This Act shall come into force on such day as the Governor of Fort St. George in Council may by notification in the Fort St. George Gazette appoint in this behalf.

IV of 1871.

Amendment of the Coroners Act, 1871.

2. For section 3 of the Coroners Act, 1871, the following shall be substituted, namely:—

Coroners of Calcutta and Bombay.

"3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay."

X of 1881.

Amendment of the Coroners Act, 1881.

3. (*1*) For the preamble to the Coroners Act, 1881, the following shall be substituted, namely:—

"Whereas it is expedient to amend the Coroners Act, 1871, in manner hereinafter appearing; It is hereby enacted as follows:—".

IV of 1871.

(*2*) Sections 2, 3 and 4 of the Coroners Act, 1881, are hereby repealed.

X of 1881.

Amendment of the Code of Criminal Procedure.

4. (*1*) Clause (*e*) of section 1 of the Code of Criminal Procedure, 1882, is hereby repealed.

X of 1882.

(*2*) Sections

[*Price one anna and seven pies.*]

(*2*) Sections 174, 175 and 176 of that Code shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras, be read as follows, namely :—

Enquiry into violent or suspicious death to be ordinarily conducted by officer in charge of police-station.

174. "(*1*) An officer in charge of a police-station, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the Commissioner of Police and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of five or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

"(*2*) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

"(*3*) In any of the following cases, namely :—

(*a*) in any case in which the Local Government may by rule so require,

(*b*) in any case in which death appears to have been caused by violence or there is any doubt regarding the cause of death,

(*c*) in any other case in which the police-officer considers it expedient so to do,

he shall cause the body to be examined by a medical officer appointed in this behalf by the Local Government.

"(*4*) The police-officer may, by order in writing, summon five or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts of the case. Every person so summoned

moned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

"(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police-stations.

"175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(a) the circumstances in which an officer in charge of a police-station, after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (a), clause (b) or clause (c) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(b) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders under sub-section (1) may be the Commissioner of Police or any of his Deputies or Assistants or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers and shall perform the duties which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

Provisions with respect to inquiries by Presidency Magistrates and the disinterment of dead bodies.

"176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174, sub-section (1), clause (a), clause (b) or clause (c), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

(2) Whenever

"(2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined."

Government of India Central Printing Office.—No. 6 L. D.—8-3-89.—4,400.—A. E. doS.

ACT No. VI OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 8th March, 1889.*)

An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters; It is hereby enacted as follows:—

X of 1865. V of 1881. VII of 1870. I of 1879.

Title, extent and commencement.

1. (*1*) This Act may be called the Probate and Administration Act, 1889.

(*2*) It applies to the whole of British India (inclusive of Upper Burma except the Shan States); and

(*3*) It shall come into force at once.

Indian Succession Act, 1865.

Amendment of section 234, Act X, 1865.

X of 1865.

2. After the 4th clause of the *explanation* to section 234 of the Indian Succession Act, 1865, the following shall be added, namely:—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect."

Amendment

3. In section 244 of the same Act, for the words "and

[*Price three annas.*]

of section 244, Act X, 1865.

"and that the petitioner is the executor therein named" the following shall be substituted, namely :—

"the amount of assets which are likely to come to the petitioner's hands, and

"that the petitioner is the executor named in the will;".

Amendment of section 254, Act X, 1865.

4. For the last forty-two words of section 254 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Amendment of section 255, Act X, 1865.

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Amendment of section 256, Act X, 1865.

6. In section 256 of the same Act, for the words "Every person to whom any grant of administration shall be committed" the words "Every person to whom any grant of letters of administration is committed" shall be substituted.

Substitution of new section for section 277, Act X, 1865. Inventory and account.

7. For section 277 of the same Act the following shall be substituted, namely :—

"277. (*1*) An executor or administrator shall, within

within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(*2*) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(*3*) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code. XLV of 1860.

"(*4*) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

8. In section 277A of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words and figures "the person applying for administration after the first day of April, 1875," the word "administrator", shall be substituted. Amendment of section 277A, Act X, 1865.

9. (*1*) In section 283 of the same Act, for the words "the country in which he was domiciled" the words "British India" shall be substituted. Amendment of section 283, Act X, 1865.

(*2*) The *illustration* to the same section is hereby repealed.

10. To

Addition to Act X, 1865.

10. To the same Act the following shall be added, namely :—

Surrender of revoked probate or letters of administration.

"333. (*1*) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(*2*) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both."

Probate and Administration Act, 1881.

Amendment of section 50, Act V, 1881.

11. After the 4th clause of the *explanation* to section 50 of the Probate and Administration Act, 1881, V of 1881. the following shall be added, namely :—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

Amendment of section 76, Act V, 1881.

12. For the portion of section 76 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely :—

"he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

13. For

Amendment of section 77, Act V, 1881.

13. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Substitution of new section for section 90, Act V, 1881.

14. For section 90 of the same Act the following shall be substituted, namely:—

Power of executor or administrator to dispose of property.

"90. (*1*) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

"(*2*) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

"(*3*) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(*a*) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(*b*) lease any such property for a term exceeding five years.

"(*4*) A

"(*4*) A disposal of property by an executor or administrator in contravention of sub-section (*2*) or sub-section (*3*), as the case may be, is voidable at the instance of any other person interested in the property.

"(*5*) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto a copy of sub-sections (*1*), (*2*) and (*4*), or of sub-sections (*1*), (*3*) and (*4*), as the case may be.

"(*6*) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section."

Substitution of new section for section 98, Act V, 1881.

15. For section 98 of the same Act the following shall be substituted, namely:—

Inventory and account.

"98. (*1*) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(*2*) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(*3*) If

"(*3*) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

XLV of 1860.

"(*4*) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

Amendment of section 99, Act V, 1881.

16. In section 99 of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words "the person applying for administration" the word "administrator", shall be substituted.

Addition to Act V, 1881.

17. To the same Act the following shall be added, namely:—

Surrender of revoked probate or letters of administration.

"157. (*1*) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(*2*) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both."

Court-fees Act, 1870, and Indian Stamp Act, 1879.

Amendment of Act VII, 1870, and Act I, 1879.

18. (*1*) Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed.

VII of 1870.

(*2*) In article 6 of the second schedule to the Court-fees Act, 1870, for the words "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court

Court or executive authority" the following words shall be substituted, namely:—

"Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure." X of 1882. XIV of 1882.

(*3*) In article 2 of the first schedule to the Indian Stamp Act, 1879, after the words "Administration-bond" the following shall be added, namely:— I of 1879.

"including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889." X of 1865. V of 1873. V of 1881. VII of 1889.

(*4*) In article 13 of the first schedule to the Indian Stamp Act, 1879, after the words "not otherwise provided for by this Act" there shall be added the words "or by the Court-fees Act, 1870". VII of 1870.

Miscellaneous.

Validation of acts under grants of administration already made.

19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained. V of 1881.

Recovery of penalties and forfeitures under Act VII, 1870.

20. (*1*) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India. VII of 1870.

(*2*) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty orforfeiture, or any part of any further penalty payable under section 19E of the said Act.

21. The

21. The following portion of section 7, clause (*3*), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled the Public Demands Recovery Act, 1880, namely :— Repeal of part of section 7 (*3*), Bengal Act VII of 1880.

> "or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H,"

is hereby repealed.

PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.—NO. 33 L. D.—16-3-89.—4,106.—A E. deS.

THE SUCCESSION CERTIFICATE ACT, 1889.

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[*Price five annas and six pies.*]

SECTION.

28. Provisions with respect to certificates under Bombay Regulation VIII of 1827.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

ACT No. VII OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 8th March, 1889.)

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows:—

Title, commencement, extent and application.

1. (*1*) This Act may be called the Succession Certificate Act, 1889.

(*2*) It shall come into force on the first day of May, 1889; and

(*3*) It extends to the whole of British India (inclusive of Upper Burma except the Shan States);

(*4*) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.

X of 1865.
XXI of 1870.

Repeal.

2. (*1*) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act.

(*3*) Any

(*3*) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof. V of 1881.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "District Court", subject to the other provisions of this Act and to the provisions of proviso (*b*) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge: and XVIII of 1884.

(*2*) "security" means—

(*a*) any promissory note, debenture, stock or other security of the Government of India;

(*b*) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;

(*c*) any stock or debenture of, or share in, a company or other incorporated institution;

(*d*) any debenture or other security for money issued by, or on behalf of, a local authority;

(*e*) any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for the purposes of this Act.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (*1*) No Court shall—

(*a*) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or

(*b*) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except

except on the production, by the person so claiming, of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 36 or section 37 of the Administrator General's Act, 1874, and having the debt mentioned therein, or

II of 1874.

(iii) a certificate granted under this Act and having the debt specified therein, or

(iv) a certificate granted under Act XXVII of 1860 or an enactment repealed by that Act, or

(v) a certificate granted under the Regulation of the Bombay Code No. VIII of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(*2*) The word "debt" in sub-section (*1*) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

Court having jurisdiction to grant certificate.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

Application for certificate.

6. (*1*) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely :—

XIV of 1882.

(*a*) the time of the death of the deceased;

(*b*) the ordinary residence of the deceased at the time of his death and, if such residence was not

not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits;

(*c*) the family or other near relatives of the deceased and their respective residences;

(*d*) the right in which the petitioner claims;

(*e*) the absence of any impediment under section 1, sub-section (*4*), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and

(*f*) the debts and securities in respect of which the certificate is applied for.

(*2*) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Procedure on application.

7. (*1*) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

(*a*) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and

(*b*) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(*2*) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(*3*) If

(*3*) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *primâ facie* the best title thereto.

(*4*) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

Contents of certificate.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

(*a*) to receive interest or dividends on, or

(*b*) to negotiate or transfer, or

(*c*) both to receive interest or dividends on, and to negotiate or transfer,

the securities or any of them.

Requisition of security from grantee of certificate.

9. (*1*) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (*3*) or sub-section (*4*), and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to enure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(*2*) The Court may, on application made by petition

tion and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

Extension of certificate.

10. (*1*) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(*2*) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

Forms of certificate and extended certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

Amendment of certificate in respect of powers as to securities.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

Amendment

13. (*1*) For articles 11 and 12 of the first schedule to

VII of 1870. to the Court-fees Act, 1870, the following shall be substituted, namely:— of Act VII 1870.

Number.		Proper fee.
"11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value: provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
VII of 1889. "12. Certificate under the Succession Certificate Act, 1889.	In any case . .	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act. NOTE.—(*1*) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (*2*) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of,

the

(*Section 14.*)

Number.		Proper fee.
		the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
"12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.		(*1*) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and (*2*) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."

(*2*) In the Court-fees Act, 1870, section 19, clause viii, for the words and figures "and certificate mentioned in the First Schedule to this Act annexed, No. 12," the words and figures "and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827" shall be substituted. VII of 1870.

Mode of collecting court-fees on certificates.

14. (*1*) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for. VII of 1870.

(*2*) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(*3*) Any sum received under sub-section (*1*) and not

not expended under sub-section (*2*) shall be refunded to the person who deposited it.

Local extent of certificate.

15. A certificate under this Act shall have effect throughout the whole of British India.

Effect of certificate.

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (*4*), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate granted or extended by British representative in Foreign State.

17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the VII of 1870. Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

Revocation of certificate.

18. A certificate granted under this Act may be revoked for any of the following causes, namely :—

(*a*) that the proceedings to obtain the certificate were defective in substance;

(*b*) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;

(*c*) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;

(*d*) that

(*d*) that the certificate has become useless and inoperative through circumstances;

(*e*) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

19. (*1*) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(*2*) An appeal under sub-section (*1*) must be preferred within the time allowed for an appeal under the Code of Civil Procedure. XIV of 1882.

(*3*) Subject to the provisions of sub-section (*1*) and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

Effect on certificate of previous certificate, probate or letters of administration.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Effect on certificate of subsequent probate or letters of administration.

21. (*1*) A grant of probate or letters of administration under the Probate and Administration Act, V of 1881. 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(*2*) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the

the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

Validation of certain payments made in good faith to holder of invalid certificate.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

Prohibition of exercise of certain powers by curators.

23. (*1*) Where a certificate has been granted under this Act or Act XXVII of 1860, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator.

(*2*) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

Effect of certain probates and letters.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters

of

of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865: X of 1865.

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

Effect of decisions under this Act, and liability of holder of certificate thereunder.

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

26. (*1*) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.

(*2*) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court:

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (*1*) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it

it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(*3*) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final.

XIV of 1882.

(*4*) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(*5*) A notification under sub-section (*1*) may specify any inferior Court specially or any class of such Courts in any local area.

(*6*) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

Surrender of superseded and invalid certificates.

27. (*1*) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(*2*) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

Provisions with respect to certificates under Bombay Regulation VIII of 1827.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827, the provisions of section 3, section 6, sub-section (*1*), clause (*f*), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of

of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted. V of 1881.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
Acts of the Governor General in Council.		
XXVII of 1860	Collection of debts on successions.	So much as has not been repealed.
XIV of 1869	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII of 1827" down to and inclusive of the words "representatives of deceased persons) and".
XV of 1874	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
XIII of 1879	Oudh Civil Courts Act, 1879.	Section 25, clause (*3*), relating to applications for certificates under Act XXVII of 1860.
V of 1881	Probate and Administration Act, 1881.	Sections 151 and 153.
XVIII of 1884	Punjab Courts Act, 1884.	Section 29, sub-section (*1*), clause (*a*).
XII of 1887	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (*2*), clause (*c*).

hedule
VII of

THE FIRST SCHEDULE—*continued.*

Number and year.	Subject or title.	Extent of repeal.
Act of the Lieutenant-Governor of Bengal in Council.		
VII of 1880 . .	Public Demands' Recovery Act, 1880.	In section 7, clause (*3*), the words "and the note to paragraph 12 of Schedule I".

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(*See section 11.*)

In the Court of

To *A. B.*

Whereas you applied on the day of for a certificate under the Succession Certificate Act, 1889, in respect of the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This

(*The Second Schedule.—Forms of Certificate and Extended Certificate.*)

This certificate is accordingly granted to you and empowers you to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of .

District Judge.

In the Court of

On the application of *A. B.* made to me on the day of , I hereby extend this certificate to the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of

District Judge.

Government of India Central Printing Office.—No. 3½ L. D.—16-3-89.—4,400.—A. E. deS.

ACT No. VIII OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 22nd March, 1889.*)

An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.

VIII of 1878. XI of 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

Sea Customs Act, 1878.

VIII of 1878.

1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely:— Amendment of section 37, Act VIII, 1878.

"Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption."

2. In section 115 of the same Act, for the words and figures "the second proviso to section 37" the words "such alteration" shall be substituted. Amendment of section 115, Act VIII, 1878.

Indian Tariff Act, 1882.

1882.

3. In section 1 of the Indian Tariff Act, 1882, the words "and Perim" shall be inserted after the word "Aden". Amendment of section 1, Act XI, 1882.

4. The

[*Price one anna and six pies.*]

Addition of new section to Act XI, 1882.

4. The following section shall be added to the same Act, namely :—

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

"10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(*a*) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(*b*) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

Amendment of the Second Schedule to Act XI, 1882.

5. In No. 1 of the Second Schedule to the same Act, for the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
			Re. A.	
	Gunpowder, common .	lb.	0 5	10 per cent.
	Gunpowder, sporting .	lb.	1 0	
	All other sorts . .	...	*Ad valorem* .	

there

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
*	*	*	*	*
			Re. A.	
	Gunpowder, common .	lb.	0 5	10 per cent.
	Gunpowder, sporting .	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores.	...	*Ad valorem* .	10 per cent.

Explanation.—The expression "Arms, Ammunition and Military Stores, as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—

(*a*) all articles which are either "arms" or "ammunition" within the meaning of the Indian Arms Act, 1878, and XI of 1878.

(*b*) any articles which the Governor General in Council may from time to time, by notification in the Gazette of India, declare to be "military stores" for the purposes of this Act.

PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING INDIA,—NO 86 L. D—28-3-89.—4,400—F J B.

ACT No. IX OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th March, 1889.)

An Act to authorise the imposition of a Patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting Kanungos and Patwaris in those Provinces.

WHEREAS it is expedient to authorise the imposition of a patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting kanungos and patwaris in those provinces; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889; and

(*2*) It shall come into force on the first day of April, 1889.

Repeal.

XIII of 1882. **2.** (*1*) The Kanungos and Patwaris Act, 1882, is hereby repealed;

(*2*) But all rules and appointments made and patwaris' circles formed under that Act or any enactment thereby repealed shall, so far as may be, be deemed to have been respectively made and formed under this Act.

Division of Act into Parts, and local extent of the several Parts.

3. (*1*) The remainder of this Act is divided into Parts as follows, namely:—

Part I.—North-Western Provinces.

Part II.—Oudh.

Part III.—North-Western Provinces and Oudh.

(*2*) Part I

[*Price three annas and three pies.*]

(*2*) Part I extends to the North-Western Provinces, Part II to Oudh, and Part III to the North-Western Provinces and Oudh.

PART I.

NORTH-WESTERN PROVINCES.

Definitions.

4. In this Part, unless there is something repugnant in the subject or context,—

(*1*) "land" means land used for agricultural purposes, or waste-land which is culturable:

(*2*) "estate" means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof:

(*3*) "landlord" means the person responsible for the payment of the land-revenue, if any, assessed on an estate, whether as owner, mortgagee-in-possession or otherwise, and includes a muafidár, nazránadár or other person holding land whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned:

(*4*) "tenant", used with reference to any land, means a tenant holding directly from the landlord of such land, and includes an under-proprietor of such land and a person bound to pay or deliver anything to such landlord in respect of the use or occupation of such land:

(*5*) "annual value" means,—

(1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue for the time being assessed on the estate, and

(2) where such settlement is not liable to such revision or where the land-revenue has been wholly or in part released, compounded

pounded for, redeemed or assigned, double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue:

(*6*) "rent" means whatever is payable to a landlord by a tenant on account of the use or occupation of land by the tenant: and

(*7*) "year" means the year commencing on the first day of April.

Patwari-rate.

5. (*1*) Every estate shall be liable to the payment of such rate, not exceeding two per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and supervisor kanungos and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village-maps.

(*2*) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landlord independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the North-Western Provinces Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

III of 1878.

(*3*) The Local Government may, by notification in the official Gazette,—

(*a*) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected;

(*b*) fix the periods for which, in the cases referred to in clause (*2*) of the definition of the expression "annual value" in section 4, assessments to the patwari-rate are to have effect;

(*c*) determine

(*c*) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and

(*d*) exempt any portion of the North-Western Provinces from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

North-Western Provinces Patwari Fund.

6. (*1*) There shall be formed for the North-Western Provinces a fund, to be called the North-Western Provinces Patwari Fund, and there shall be placed to the credit thereof—

(*a*) the proceeds of the patwari-rate, and

(*b*) a contribution, to be made thereto each year, of such sum as the Local Government may allot from the general revenues at its disposal.

(*2*) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (*1*) of the last foregoing section.

(*3*) An account of the fund shall be published annually by the Local Government in the official Gazette.

Payment of patwari-cess to payer of patwari-rate.

7. (*1*) The landlord of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—

(*a*) if the rent of the tenant is payable in money, then a cess on such rent at the rate of two pies for every rupee thereof, or

(*b*) if the land is held rent-free or rent in respect thereof is payable in kind or in service, then a cess equivalent as nearly as may be to one per cent. of the rent in money which would

on

on a reasonable assessment be payable in respect of the land.

(*2*) The cess in respect of such land as is described in clause (*b*) of sub-section (*1*) shall be computed, and be payable, in such manner as the Local Government may by general or special rules in this behalf prescribe.

Recovery of rate or cess through Revenue Courts.

8. Suits for the recovery of any sum on account of the patwari-rate, or for the recovery of the cess mentioned in the last foregoing section or the money-equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 93 of the North-Western Provinces Rent Act, 1881.

XII of 1881.

PART II.

OUDH.

Definitions.

9. In this Part, unless there is something repugnant in the subject or context,—

(*1*) "land" means land assessed to land-revenue and includes land of which the revenue has been wholly or in part released, compounded for, redeemed or assigned:

(*2*) "estate" means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof:

(*3*) "landholder" means the person in receipt of the rent of any land, whether as owner, mortgagee-in-possession or otherwise, and includes an under-proprietor with whom a sub-settlement has been made of the whole village in which the land is situated:

(*4*) "tenant" means the person holding directly from the landholder, and includes an under-proprietor of land, not being an under-proprietor with whom a sub-

sub-settlement has been made of the whole village in which the land is situated :

(*5*) "annual value" means—

(1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue assessed on the estate, and

(2) where such settlement is not liable to periodical revision or where the land-revenue or a portion thereof has been released, compounded for, redeemed or assigned, double the amount which, if the settlement were liable to periodical revision, would, but for such non-liability, release, composition, redemption or assignment, be assessable as land-revenue :

(*6*) "rent" means whatever is payable to a landholder by a tenant on account of the use or occupation of land by the tenant : and

(*7*) "year" means the year commencing on the first day of April.

Power to alter number and limits of patwaris circles.

10. (*1*) With the previous sanction of the Local Government, the Deputy Commissioner may from time to time alter the number of patwaris' circles in his district and the respective limits of such circles.

(*2*) A patwari shall be appointed to each circle whether the estates in such circle are assessed to land-revenue or not.

Nomination and appointment of patwaris to fill vacancies.

11. (*1*) Whenever a circle is without a patwari, the proprietors of such circle, or their representatives in interest, shall, in accordance with local custom, nominate a person to be the patwari of the circle, and he shall be appointed by the Deputy Commissioner or Assistant Commissioner.

(*2*) In case of disagreement as to the nominee the Deputy Commissioner or Assistant Commissioner shall ascertain

ascertain the local custom, if any, and shall appoint the person nominated in accordance therewith.

(*3*) Where no such custom can be ascertained the Deputy Commissioner or Assistant Commissioner shall appoint the nominee of those proprietors who represent the largest amount of annual value in the circle, or of their representatives in interest.

(*4*) If an estate is held under direct management, or if the proprietor of an estate is under the superintendence of the Court of Wards, the Deputy Commissioner or Assistant Commissioner shall be deemed to be the proprietor for the purpose of nominating a patwari under this section.

(*5*) If the persons in whom the nomination is vested neglect to nominate a successor to the patwari within fifteen days from the occurrence of the vacancy, the Deputy Commissioner or Assistant Commissioner shall call on them by notice to make the nomination, and, if they fail to do so within fifteen days from the receipt of the notice, the Deputy Commissioner or Assistant Commissioner shall make the appointment.

(*6*) If the persons in whom the nomination is vested nominate a person not qualified to perform the duties of a patwari, or in the nomination neglect to follow the local custom, the Deputy Commissioner or Assistant Commissioner shall refuse to appoint the nominee, and, if no fit person is nominated within fifteen days from the date of the notification of such refusal, shall himself appoint a person to the vacant office.

Power to make rules respecting kanungos and patwaris.

12. The Local Government may make rules consistent with this Act—

(*a*) regulating the appointment of supervisor kanungos and the qualifications, remuneration, suspension, dismissal, duties and supervision of kanungos and patwaris, and

(*b*) prescribing

(*b*) prescribing the fines which may be imposed on kanungos and patwaris for neglect of duty.

Patwari-rate.

13. (*1*) Every estate shall be liable to the payment of such rate, not exceeding one and a half per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and supervisor kanungos and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village-maps.

(*2*) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landholder independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the Oudh Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate. IV of 1878.

(*3*) The Local Government may, by notification in the official Gazette,—

(*a*) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected;

(*b*) fix the periods for which, in the cases referred to in clause (*2*) of the definition of the expression "annual value" in section 9, assessments to the patwari-rate are to have effect;

(*c*) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and

(*d*) exempt any portion of Oudh from the operation of this Part, or exempt any estate from

from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

Oudh Patwari Fund.

14. (*1*) There shall be formed for Oudh a fund to be called the Oudh Patwari Fund, and there shall be placed to the credit thereof—

(*a*) the proceeds of the patwari-rate, and

(*b*) a contribution, to be made thereto every year, of such sum as the Local Government may allot from the general revenues at its disposal.

(*2*) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (*1*) of the last foregoing section.

(*3*) An account of the fund shall be published annually by the Local Government in the official Gazette.

Payment of patwari-cess to payer of patwari-rate.

15. The landholder of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—

(*a*) if the rent of the tenant is payable in money, then a cess on such rent at the rate of one-and-a-half pies for every rupee thereof, or

(*b*) if the land is held rent-free or rent in respect thereof is payable in kind or service, then a cess equivalent as nearly as may be to three-fourths of one per cent. of the rent in money which would on a reasonable assessment be payable in respect of the land.

(*2*) The cess in respect of such land as is described in clause (*b*) of sub-section (*1*) shall be computed, and be payable, in such manner as the Local Government may by general or special rules in this behalf prescribe.

16. Suits

Recovery of rate or cess through Revenue Courts.

16. Suits for the recovery of any sum on account of the patwari-rate, or for the recovery of the cess mentioned in the last foregoing section or the money-equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 108 of the Oudh Rent Act, 1886. XXII of 1886.

Character of kanungos and patwaris and their records.

17. Every kanungo and patwari shall be deemed to be a public servant within the meaning of the Indian Penal Code, and all official records and papers kept by him shall be deemed to be public records and the property of the Government. XLV of 1860.

PART III.

NORTH-WESTERN PROVINCES AND OUDH.

Contributions of the Government to the Patwari Funds.

18. The contributions to be made by the Local Government to the North-Western Provinces Patwari Fund and the Oudh Patwari Fund under sections 6 and 14 shall not, without the previous sanction of the Governor General in Council, amount in the aggregate in any year to a smaller sum than ten lakhs of rupees.

Obligation to furnish information necessary for the preparation of records.

19. Any person whose rights, interests or liabilities are required by any enactment for the time being in force or by any rule under any such enactment to be entered in any official record or paper by a kanungo or patwari shall be bound to furnish, on the requisition of the kanungo or patwari or of any revenue-officer engaged in compiling the record or paper, all information necessary for the correct compilation thereof.

Government of India Central Printing Office.—No. 129 L. D.—18-4-89.—4,400.—F. J. B.

THE INDIAN PORTS ACT, 1889.

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[*Price ten annas.*]

CHAPTER IV.

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THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

ACT No. X OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 29th March, 1889.*)

An Act to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, commencement and extent.

1. (*1*) This Act may be called the Indian Ports Act, 1889; and

(*2*) It shall come into force on the first day of April, 1889.

(*3*) It shall extend, save as otherwise appears from its subject or context,—

(*a*) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the Regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875;

XII of 1875.

(*b*) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act:

(*4*) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service

service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto:

(*5*) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

Repeal.

2. (*1*) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(*2*) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them, shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act: and

(*3*) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "port" includes also any part of a river or channel in which this Act is for the time being in force:

(*2*) "port-officer" is synonymous with master-attendant:

(*3*) "vessel" includes anything made for the conveyance by water of human beings or of property:

(*4*) "master",

(*4*) "master", when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(*5*) "pilot" means a person for the time being authorized by the Local Government to pilot vessels:

(*6*) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships: and

(*7*) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

X of 1882.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

Power to extend or withdraw the Act or certain portions thereof.

4. (*1*) With the previous sanction of the Governor General] in Council, the Local Government may, by notification in the official Gazette,—

(*a*) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(*b*) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(*c*) withdraw this Act, or section 31 or section 32 from any port or any part thereof in which it is for the time being in force.

(*2*) A notification under clause (*a*) or clause (*b*) of sub-section (*1*) shall define the limits of the area to which it refers.

(*3*) Limits

(*3*) Limits defined under sub-section (*2*) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(*4*) In sub-section (*3*) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

Alteration of limits of ports.

5. (*1*) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(*2*) When the Local Government alters the limits of a port under sub-section (*1*), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

Power to make port-rules.

6. (*1*) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely :—

(*a*) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;

(*b*) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;

(*c*) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;

(*d*) for

(*d*) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;

(*e*) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;

(*f*) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

(*g*) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(*h*) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(*i*) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(*j*) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(*k*) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only occasionally, in or partly within and partly without any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel;

(*l*) for regulating the use of fires and lights within any such port;

(*m*) for

(*m*) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;

(*n*) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;

(*o*) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port; and

(*p*) for regulating the action to be taken by a master where there is disease or sickness, or a dead body, on board his vessel in any such port;

(*2*) The power to make rules under sub-section (*1*) is subject to the condition of the rules being made after previous publication:

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (*2*).

CHAPTER III.

PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

Appointment of conservator.

7. (*1*) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.

(*2*) Subject to any direction by the Local Government to the contrary,—

(*a*) in ports where there is a port-officer, the port-officer shall be the conservator;

(*b*) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

(*3*) Where

(*3*) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(*4*) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

Power of conservator to give and enforce directions for certain specified purposes.

8. (*1*) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(*2*) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(*3*) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

Power to cut warps and ropes.

9. The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

Removal of obstructions within limits of port.

10. (*1*) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof

thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(*2*) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(*3*) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

Recovery of expenses of removal.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

Removal of lawful obstructions.

12. (*1*) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(*2*) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

Fouling of Government moorings.

13. (*1*) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(*2*) Any master or other person offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

Raising or removal of

14. (*1*) If any vessel is wrecked, stranded or sunk

wreck impeding navigation within limits of port.

sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

(*2*) If any property recovered by a conservator acting under sub-section (*1*) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(*3*) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto :

Provided that the person makes his claim within three years from the date of the sale.

Power to board vessels and enter buildings.

15. (*1*) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(*2*) If the master of the vessel, or any person in possession or occupation of the building or place, without

without lawful excuse, refuses to allow any such person as is mentioned in sub-section (*1*) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

Power to require crews to prevent or extinguish fire.

16. (*1*) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(*2*) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

Appointment and powers of health-officer.

17. (*1*) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed.

(*2*) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely :—

(*a*) with respect to any vessel, the powers conferred on a shipping-master by Act I of 1859, section 71 ;

(*b*) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessel ;

(*c*) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the

the purpose of enquiring into the health and medical condition of the persons on board the vessel;

(*d*) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;

(*e*) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

Indemnity to Government against act or default of port-official or pilot.

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

Injuring buoys, beacons and moorings.

19. (*1*) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(*2*) If

(*2*) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

Wilfully loosening vessel from moorings.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

Improperly discharging ballast.

21. (*1*) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

(*2*) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown, shall be punished with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(*3*) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(*4*) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within

within which such act may be authorized by the Local Government.

Graving vessel within prohibited limits.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

Boiling pitch on board vessel within prohibited limits.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

Drawing spirits by unprotected artificial light.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

Warping.

25. (*1*) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(*2*) A master offending against sub-section (*1*) shall be punished for every such offence with fine which may extend to two hundred rupees.

Leaving out warp or hawser after sunset.

26. (*1*) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(*2*) A master

(*2*) A master offending against sub-section (*1*) shall be punished for every such offence with fine which may extend to two hundred rupees.

Discharge of firearms in port.

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

Penalty on master omitting to take order to extinguish fire.

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Unauthorized person not to search for lost stores.

29. (*1*) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(*2*) If any person offends against the provisions of sub-section (*1*), he shall be punished with fine which may extend to one hundred rupees.

Removing stones or injuring shores of port prohibited.

30. (*1*) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore,

shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in, or overlook the performance of, such work.

(*2*) If any person offends against sub-section (*1*), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

Moving of vessels without pilot or permission of harbour-master.

31. (*1*) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(*2*) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (*1*), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(*3*) Nothing in sub-sections (*1*) and (*2*) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay.

(*4*) If

(*4*) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

Provision of certain vessels with fire-extinguishing apparatus.

32. (*1*) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(*2*) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (*1*), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

Levy of port-dues.

33. (*1*) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as the Local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(*2*) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

(*a*) in the terms of any of the entries in the second

second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(*b*) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(*c*) the times at which such vessels are to be so chargeable.

(*3*) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(*4*) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

Variation of port-dues by Local Government.

34. The Local Government may exempt the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them:

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

Fees for pilotage and certain other services.

35. (*1*) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, remooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct:

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(*2*) The fees now chargeable for such services shall continue to be chargeable unless and until they are

are altered in exercise of the power conferred by sub-section (*1*).

Receipt, expenditure and account of port-charges.

36. (*1*) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(*2*) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes, of the account for the past financial year.

(*3*) If, for any of the purposes of this Act, an advance of money has been or shall be made by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the port fund account of the port.

(*4*) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

(*a*) fines,

(*b*) proceeds of waifs, and

(*c*) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the port fund account of the port.

(*5*) All

(*5*) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(*a*) the pay and allowances of all persons upon the establishment of the port,

(*b*) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(*c*) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(*d*) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and

(*e*) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(*6*) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily invested in such manner as the Local Government may direct.

Grouping of ports.

37. (*1*) The Local Government may direct that for

for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (*4*) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karáchi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(*2*) Where ports are grouped by or under this Act, the following consequences ensue, namely:—

(*a*) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, with the previous sanction of the Governor General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, and shall cause effect to be given to any directions which the Governor General in Council may deem it necessary to issue with respect to such expenditure; and

(*b*) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

Receipts for port-charges.

38. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage

tonnage and other proper description of the vessel in respect of which the payment is made.

Master to report arrival.

39. (*1*) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(*2*) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(*3*) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying to and from any of the ports subject to this Act or to ballam boats plying to and from the port of Chittagong.

Conservator may in certain cases ascertain draught and charge expense to master.

40. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

Ascertainment of tonnage of vessel liable to port-dues.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed :—

(*1*) (*a*) If the vessel is a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(*b*) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished

punished with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(*2*) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(*3*) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (*1*) and (*2*), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

Distraint and sale on refusal to pay port-charges.

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging

ing thereto, or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

No port-clearance to be granted until port-charges are paid.

43. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

(*a*) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;

(*b*) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid. 17 & 18 Vict., c. 104.

Port-charges payable in one port recoverable at any other port.

44. (*1*) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(*2*) The

(*2*) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *primâ facie* proof of such amount in any proceeding under section 42, and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

Penalty for evading payment of port-charges.

45. (*1*) If the master of a vessel evades the payment of any such sum as is mentioned in section 43, he shall be punished with fine which may extend to five times the amount of the sum.

(*2*) In any proceeding before a Magistrate on a prosecution under sub-section (*1*), any such certificate as is mentioned in section 44, sub-section (*2*), stating that the master has evaded such payment, shall be sufficient *primâ facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(*3*) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

Port-due on vessels in ballast.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

Port due on vessels not discharging or taking in cargo.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes

poses of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable:

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

Port-dues not chargeable on pleasure-yachts or on vessels re-entering from stress of weather.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

Power to impose hospital port-dues.

49. (*1*) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

(*2*) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (*1*), have regard to any contributions made under section 36, sub-section (*5*), clause (*d*).

(*3*) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(*4*) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of

of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(*5*) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (*1*) or withdraw any exemption under sub-section (*4*).

Application and account of hospital port-dues.

50. (*1*) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(*2*) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(*3*) Such account shall be published as a supplement to the abstract published under section 36, sub-section (*2*).

CHAPTER VI.

Hoisting Signals.

Master to hoist number of vessel.

51. (*1*) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual,

usual, and shall keep the signal flying until it is answered from the signal-station.

(*2*) If the master of a vessel arriving as aforesaid offends against sub-section (*1*), he shall be punished for every such offence with fine which may extend to one thousand rupees.

Pilot to require master to hoist number.

52. (*1*) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(*2*) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

Penalty on pilot disobeying provisions of this Chapter.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

Penalty for disobedience to rules and orders of the Local Government.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.

Offences how triable, and penalties how recovered.

55. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for

any

any offence committed on board of the vessel or in the management thereof, or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Costs of conviction.

56. (*1*) In case of any conviction under this Act the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(*2*) Such costs may be assessed by the Magistrate, and may be recovered in the same manner as any fine under this Act.

Ascertainment and recovery of expenses and damages payable under this Act.

57. (*1*) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(*2*) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under thisAct, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

Costs of distress.

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

Magistrate to determine the amount to be levied in case of dispute.

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine

mine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

Jurisdiction over offences beyond local limits of jurisdiction.

60. (*1*) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(*2*) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Conviction to be quashed on merits only.

61. (*1*) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(*2*) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII.

Supplemental Provisions.

Hoisting unlawful colours in port.

62. (*1*) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoists, carries or wears within the limits of any port subject

subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

17 & 18 Vict., c. 104.

(*2*) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(*3*) The conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

Foreign deserters.

63. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852, has by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

15 & 16 Vict., c. 26.

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (*1*) The

Application of sections 10 and 21.

64. (*1*) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(*2*) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

(*3*) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (*4*), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

Application of Maulmain and Bassein port-dues.

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

Validation of irregular contributions.

66. Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

Grant of sites for sailors' institutes.

67. Any local authority in which any immoveable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

Exercise of powers of conservator by his assistants.

68. (*1*) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master

harbour-master or any deputy or assistant of such conservator or harbour-master.

(*2*) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

Service of written notices of directions.

69. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

Publication of orders of Local Government.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See sections 1 and 33.)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta . .	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of *dhonis* and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of *dhonis* and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong . .	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto . . .	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam-boats .	Not exceeding one anna per ton.	Whenever the vessel enters the port.

Cuttack

(*The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.*)

PART I.—BENGAL—*continued.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Cuttack Ports,—namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,—namely, Balasore, Chúráman, Laichhunpur, Chánua, Subarnarekha, Dhamra (Chandbally) and Sartha.	Ditto . .	Ditto . .	Ditto.

PART II.—MADRAS PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Madras	Sea-going vessels of fifteen tons and upwards.	*Foreign Vessels.* (*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements or Ceylon, calling at Madras, not exceeding four annas a ton. (*b*) In the case of any other foreign ship or steamer calling at Madras, not exceeding four annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again. The due is payable on each entry into the port.
		Coasting Vessels. (*c*) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton. (*d*) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again. The due is payable once in thirty days.

(*The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.*)

PART II.—MADRAS PRESIDENCY—*continued.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
Eastern Group.				
District.	Port.			
Vizagapatam. Ganjam.	1. Gopálpur.	Sea-going vessels of fifteen tons and upwards.	*Foreign Vessels.*	
	2. Sonnapuram.		(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	3. Baruva.			
	4. Púndi.			
	5. Calingapatam.			
Vizagapatam.	6. Konada.		(*b*) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	7. Bimlipatam.			
	8. Vizagapatam.			
	9. Pudimadaka.			
	10. Pentakota.			
Godávari.	11. Uppada.			
	12. Cocanada.			
	13. Coringa.			
	14. Bendamurlanka.			
Kistna.	15. Narsápur.		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	16. Perupalem.			
	17. Masulipatam.			
	18. Penumudi.			
	19. Morutota.			
	20. Nagayalanka.			
	21. Kottapalem.			
	22. Gangadpalem.			
	23. Nizampatnam.			
	24. Ipurupalem.			
	25. Bodduvanipalem.		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	26. Motupalle.			
	27. Kanuparti.			
	28. Kottapatnam.			
	29. Itamukkala.			
Nellore.	30. Pakala.			
	31. Karedu.			
	32. Ramayapatnam.			
	33. Chennayyapalem.		*Coasting Vessels.*	
	34. Tummalapenta		(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	35. Juvaladinne.			
	36. Iskapalle.			
	37. Ponnapudi.			
	38. Maipadu.			
	39. Kistnapatam.			
	40. Pamanji.			
	41. Tupili.			
	42. Dugarazpatnam.		(*f*) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty from liability to pay the due again at that or any other port in the group.
	43. Pudi.			
Chingleput.	44. Pulicat.			
	45. Ennore.			
	46. Covelong.			

(*The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.*)

PART II.—MADRAS PRESIDENCY—*continued.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
Eastern Group—contd.		Sea-going vessels of fifteen tons and upwards.	*Foreign Vessels.*	
District.	Port.			
South Arcot	47. Marakanam.		(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	48. Cuddalore.			
	49. Porto Novo.			
Tanjore.	50. Tirumalavasal.			
	51. Kodiyampalaiyam.			
	52. Tranquebar.			
	53. Nagore.			
	54. Negapatam.		(*b*) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	55. Velankani.			
	56. Topputurai.			
	57. Point Calimere.			
	58. Mutupet.			
	59. Adirampatnam.			
	60. Gopalapatnam.			
	61. Kattumavadi.			
	62. Krishnajipatnam.		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	63. Ammapatnam.			
	64. Kottaipatnam.			
	65. Sundarapandiyapatnam.			
	66. Pasipatnam.			
	67. Damodarapatnam.			
	68. Tondi.			
Madura.	69. Nambitalai.		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	70. Pudupatnam.			
	71. Karangadu.			
	72. Tiruppalankudi.			
	73. Devipatnam.			
	74. Mudiyanpatnam.			
	75. Attankarai.			
	76. Emanangundu.			
	77. Pillaimadum.		*Coasting Vessels.*	
	78. Pámbam.			
	79. Rámesvaram.		(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	80. Mandapam.			
	81. Vedalai.			
	82. Marakkayapatnam.			
	83. Muttupettai.			
	84. Kilakarai.			
	85. Ervadi.		(*f*) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	86. Valinokkam.			
Tinnevelly.	87. Vaippar.			
	88. Tuticorin.			
	89. Kayalpatnam.			
	90. Kulasekharapatnam.			

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART II.—MADRAS PRESIDENCY—*continued.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1		2	3	4
Western Group.				
District.	Port.			
			Foreign Vessels.	
Malabar.	91. Cochin. 92. Arrupuram. 93. Kukkuyi. 94. Madayi. 95. Attakuri. 96. Chávakád. 97. Veliyangod. 98. Ponáni. 99. Kuttayí. 100. Parapanna. 101. Tanur. 102. Parpanangádi. 103. Kadalvandi. 104. Beypore. 105. Molakkadava. 106. Calicut. 107. Pudiyangadi. 108. Elatturu. 109. Kappatta. 110. Quilandi. 111. Kollam. 112. Kadalura. 113. Trikodi. 114. Kottakkal. 115. Badagara. 116. Muttankal. 117. Chompayi. 118. Kallayi. 119. Talayi. 120. Tellicherry. 121. Dharmapatnam. 122. Ezhara. 123. Cannanore. 124. Pudiyangadi. 125. Palapatnam (Baliapatam). 126. Ettikulam. 127. Kavvayi.	Sea-going vessels of fifteen tons and upwards.	(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
			(*b*) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
			(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
			(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
			Coasting Vessels.	
			(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
			(*f*) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.

(*The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.*)

PART II.—MADRAS PRESIDENCY—*concluded.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1			3	4
Western Group—continued.				
District.	Port.			
South Canara.	128. Hosdrug.	Sea-going vessels of fifteen tons and upwards.	*Foreign Vessels.*	
	129. Baikal.		(*a*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	130. Kâsaragód.		(*b*) In the case of any other foreign ship or steamer calling at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	131. Kumbale.		(*c*) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	132. Manjesvara.			
	133. Mangalore.			
	134. Mulki.			
	135. Padubidri.			
	136. Ermala.			
	137. Uchhila.			
	138. Kaph.		(*d*) In the case of any other foreign ship or steamer calling at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	139. Udiyavara.			
	140. Malpé.			
	141. Barkur or Hangarakatta.			
	142. Coondapoor.		*Coasting Vessels.*	
	143. Nyakmakatte (Nayakkankottai).		(*e*) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	144. Baindur.		(*f*) In the case of a coasting steamer calling at one or more ports in the Western group, not exceeding three annas a ton.	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	145. Siruru.			

Explanations to Part II of the First Schedule.

Explanation 1.—In this Part of the Schedule—

(*a*) "ship" means a sailing vessel, and "steamer" a steam-vessel:

(*b*) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the Island of Ceylon or in any part of India, between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878: of 1878.

(*c*) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

PART III.

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Dues how often chargeable in respect of same vessel.
1	2	3	4
Bombay . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in the same month.
	Tug-steamers, ferry-steamers and river-steamers.	Ditto . . .	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
Northern Group of Ports—			
1. Gogha . .			
2. Dholerá . .			
3. Tankári . .			
4. Dehegám .			
5. Dehej . .			
6. Broach . .			
7. Jhagwá . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time or any other port of the same group within thirty days.
8. Surat . .			
9. Matwád . .			
10. Dalsár . .			
11. Umarsádi .			
12. Kolak . .			
13. Kálai . .			
14. Maroli . .			
15 Umbargám .			
16. Gholwad . .			
17. Dáhánu Creek .			
18. Tárápur .			
19. Olviárá Navápur			
20. Sátpati Creek .			
21. Máhim (Kelva)			
22. Kelva .			
23. Dántiora .			
24. Arnála .			

Southern

(*The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.*)

PART III.—BOMBAY PRESIDENCY—*continued.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Southern Group of Ports—			
1. Bándra	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesáva			
3. Manori			
4. Utan			
5. Bassein			
6. Bhiwndi			
7. Kalyan			
8. Tháná			
9. Trombay			
10. Panwel			
11. Karanjá			
12. Rewas			
13. Nagothna			
14. Thal			
15. Alibág			
16. Revdandá			
17. Mándád			
18. Bánkot			
19. Kelshi			
20. Harnai			
21. Anjanwel			
22. Dorya			
23. Jaygad			
24. Varavdá			
25. Ratnágiri			
26. Purangad			
27. Jaytápur			
28. Vijaydurg			
29. Devgad			
30. Achra			
31. Málwan			
32. Nivti			
33. Vengurla			
34. Redi			
35. Terekhol			
36. Kárwár, including Baitkhol			
37. Chendiya			
38. Ankolá			
39. Gangávali			
40 Tadri			
41. Kumptá			
42 Honáwar			
43. Murdeshwar			
44. Shirali			
45. Bhatkal			

(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)

PART III.—BOMBAY PRESIDENCY—*concluded.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Karáchi . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in three months.
	Tug-steamers and river-steamers.	Ditto . . .	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden . . .	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon . .	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.

(*The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment. The Second Schedule.—Enactments repealed.*)

PART IV.—BURMA—*continued.*

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Kyauk-Phyu .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Once in sixty days.
Akyab . .	Ditto . .	Ditto.	Ditto.
Bassein . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto.	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Tavoy . .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui . .	Ditto . .	Ditto.	Ditto.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
	Acts of the Governor General in Council.	
XII of 1875 .	Indian Ports Act, 1875 . .	So much as has not been repealed.
IX of 1879 .	Burma Coast-lights Act, 1879 .	Section 17 and the preamble to that section.
VII of 1880 .	Indian Merchant Shipping Act, 1880.	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed".

(The Second Schedule.—Enactments repealed.)

Number and year.	Subject or title.	Extent of repeal
	Acts of the Governor General in Council—contd.	
IV of 1881	Madras Port-dues Act, 1881 . .	The whole.
XVII of 1882	Indian Ports Act, 1882 . .	The whole.
V of 1883	Indian Merchant Shipping Act, 1883.	Section 31.
XI of 1883	Reduction of Port-dues in the Port of Bombay.	The whole.
IV of 1884	Indian Explosives Act, 1884 . .	Section 3.
V of 1885	Amendment of the Indian Ports Act, 1875.	The whole.
	Act of the Governor of Fort St. George in Council.	
II of 1872	Madras Port Rules . . .	The whole.
	Act of the Lieutenant-Governor of Bengal in Council.	
III of 1872	Calcutta Port Commissioners .	The whole.

Government of India Central Printing Office.—No. 130 L D —21-4-89.—4,400.—F J.

THE LOWER BURMA COURTS ACT, 1889.

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BENGAL SECRETARIAT LIBRARY

ACT No. XI of 1889.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the Assent of the Governor General on the 30th May, 1889.)

An Act to consolidate and amend the law relating to the Courts, and declare the effect of certain enactments, in Lower Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts, and to declare the effect of certain enactments, in Lower Burma; and whereas the Secretary of State for India in Council has sanctioned and approved the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Lower Burma Courts Act, 1889.

(*2*) Save in so far as it applies expressly or by necessary implication to other parts of British India (inclusive of Upper Burma and the Shan States), it extends to Lower Burma only; and

(*3*) It shall come into force at once.

Repeal.

2. (*1*) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) Any enactment or document referring to any of the enactments in that schedule touching Courts in Burma, or to any enactment repealed by any of those enactments, or to any enactment repealed by the VII of 1872. Burma Courts Act, 1872, shall, so far as may be, be construed

construed as referring to this Act or to the corresponding portion thereof; and

(*3*) All rules, orders and appointments made, limits fixed, directions given, powers and jurisdiction conferred, lists, tables and notifications published, and seals, forms, registers, books, accounts, statements and returns prescribed, under any of the said enactments shall, so far as may be, be deemed to have been respectively made, fixed, given, conferred, published and prescribed under this Act.

(*4*) No trial had, decree made, order passed or proceeding taken by any Court before the day on which this Act comes into force shall, if not invalid before that day, become invalid by reason of any repeal effected by this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "Lower Burma" means the territories for the time being comprised in Lower Burma under sub-sections (*1*) and (*2*) of section 2 of the Upper Burma Laws Act, 1886: XX of 1886.

(*2*) "Shan States" means the territories for the time being notified under sub-section (*3*) of section 8 of the Upper Burma Laws Act, 1886, as Shan States for the purposes of that section and sections 6 and 7 of that Act:

(*3*) "Upper Burma" means the whole of Burma except Lower Burma and the Shan States:

(*4*) "High Court" means the High Court of Judicature at Fort William in Bengal:

(*5*) "Judicial Commissioner" means the Judicial Commissioner of Lower Burma:

(*6*) "Recorder" means the Recorder of Rangoon: and

(*7*) "Special Court" means the Special Court constituted under this Act.

CHAPTER II.

(*Chapter II.—Law to be administered.—Section 4. Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 5.*)

CHAPTER II.

LAW TO BE ADMINISTERED.

Law to be administered by Courts under this Act.

4. (*1*) Where, in any suit or other proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in Lower Burma.

(*2*) Subject to the provisions of sub-section (*1*) and of any other enactment for the time being in force, all questions arising in suits before the Recorder shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

(*3*) In cases not provided for by sub-section (*1*) or sub-section (*2*), or by any such other enactment as aforesaid, the Court shall act according to justice, equity and good conscience.

CHAPTER III.

THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.

Grades, Location and Control of Civil Courts.

Grades of Civil Courts.

5. Besides the Courts of Small Causes, the Court of the Recorder and the Special Court, and the Courts established

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 6-9.)

established under the Arakan Hills Civil Justice Regulation, 1874, there shall be six grades of Civil Courts in Lower Burma, namely:— VIII of 1874.

(*a*) the Court of the Myo-ôk;

(*b*) the Courts of the Extra Assistant Commissioner and the Assistant Commissioner;

(*c*) the Court of the Deputy Commissioner;

(*d*) the Court of the Judge of the Town of Maulmain;

(*e*) the Court of the Commissioner; and

(*f*) the Court of the Judicial Commissioner.

Confirmation of existing Civil Courts.

6. All existing Courts of the grades specified in the last foregoing section shall be deemed to have been established under this Act.

Number and local jurisdiction of Civil Courts.

7. The Local Government may, of its own authority, vary the number of Courts of the grade specified in clause (*a*) or (*b*) of section 5, and the local limits of the jurisdiction of any such Court, and, with the previous sanction of the Governor General in Council, the number of Courts of the grade specified in clause (*c*) or (*e*) and the local limits of the jurisdiction of any such Court or of the Court of the Judge of the Town of Maulmain.

Place of sitting and seal of Civil Courts.

8. Every Court of a grade specified in section 5 shall—

(*a*) be held at such place or places as the Local Government directs or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit; and

(*b*) use a seal of such form and dimensions as the Local Government prescribes.

Superintendence and control over Civil Courts.

9. (*1*) The general superintendence and control over all Courts of the grades specified in clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of section 5 shall be vested in, and

and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(*2*) Subject to such general superintendence and control of the Court of the Judicial Commissioner, the control over all the Courts in a division which are of the grades specified in clauses (*a*), (*b*) and (*c*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(*3*) Subject as aforesaid and to the control of the Court of the Commissioner, the control over all the Courts in a district which are of the grades specified in clauses (*a*) and (*b*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Ordinary Civil Jurisdiction.

Jurisdiction of the several grades of Civil Courts.

10. Subject to the provisions of this Act and of the Code of Civil Procedure, the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Courts mentioned in the first column of the following table shall have such civil jurisdiction, respectively, as is specified in the second column thereof:—

XIV of 1882.
IX of 1887.

Grade and name of Court.	Extent of jurisdiction.
1	2
(*a*) The Court of the Myo-ôk.	Powers of a Civil Court for the adjudication of any suit of value not exceeding five hundred rupees.
(*b*) The Court of the Extra Assistant Commissioner and the Court of the Assistant Commissioner.	Powers of a Civil Court for the adjudication of any suit of value not exceeding three thousand rupees.

(*Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 11.*)

Grade and name of Court.	Extent of jurisdiction.
1	2
(*c*) The Court of the Deputy Commissioner.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Power to hear appeals from original decrees and orders of Courts of Myo-ôks, Extra Assistant Commissioners and Assistant Commissioners.
(*d*) The Court of the Judge of the Town of Maulmain.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Powers of a Provincial Court of Small Causes for the adjudication of any suit cognizable by such a Court and of value not exceeding one thousand rupees.
(*e*) The Court of the Commissioner.	As regards the Courts subordinate to the Court of the Commissioner, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. Power to hear appeals from original decrees and orders of Courts of Deputy Commissioners.
(*f* The Court of the Judicial Commissioner.	Powers of a High Court in relation to all Civil Courts in Lower Burma, except the Special Court, the Court of the Recorder and the Court of Small Causes of Rangoon. Power to hear appeals from original decrees and orders of Courts of Commissioners.

Special Civil Jurisdiction.

Enhancement of original jurisdiction of certain Civil Courts.

11. (*1*) The Local Government may, by notification in the Burma Gazette, invest any Myo-ôk with the powers of a Civil Court for the adjudication of suits of value not exceeding three thousand rupees, and any Extra Assistant Commissioner or Assistant Commissioner with such powers for the adjudication of suits of value not exceeding five thousand rupees.

(*2*) A

(*2*) A Myo-ôk, or an Extra Assistant Commissioner or Assistant Commisioner, who has been invested with powers under sub-section (*1*) shall, for the purposes of section 191 of the Code of Civil Procedure, be deemed to be a successor to any Judge who has been prevented, from any such cause as is mentioned or referred to in that section, from concluding the trial of any suit which, if it were about to be instituted, would be cognizable by such Myo-ôk or such Extra Assistant Commissioner or Assistant Commissioner in exercise of those powers.

XIV of 1882.

Power to invest certain Courts with Small Cause Court jurisdiction.

12. The Local Government may, by a like notification, confer, within such local limits as it thinks fit, upon any Myo-ôk, Extra Assistant Commissioner or Assistant Commissioner the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding one hundred rupees in the case of a Myo-ôk, or five hundred rupees in the case of an Extra Assistant Commissioner or Assistant Commissioner, as it thinks fit, and may withdraw any jurisdiction so conferred.

IX of 1887.

Exercise by one Civil Court of jurisdiction within local jurisdiction of another such Court.

13. The Local Government may, by a like notification, empower the presiding officer of any Court of a grade specified in clause (*a*), (*b*), (*c*) or (*e*) of section 5 to exercise within the local limits of the jurisdiction of any other Court of the same grade all or any of the powers which might be exercised by the presiding officer of the other Court.

Power to confer powers of Court of Deputy Commissioner on certain district-officers.

14. (*1*) The Local Government may, by a like notification, confer upon the officer in chief executive charge of any district the powers which might be exercised within the district by the Court of a Deputy Commissioner.

(*2*) Where such powers are so conferred upon such an officer, the officer shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner

Commissioner and his Court the Court of a Deputy Commissioner.

Civil Procedure.

Procedure where the presiding officer of a Court is personally interested in a case.

15. (*1*) The presiding officer of a Court of a grade specified in clause (*a*), (*b*), (*c*), (*d*) or (*e*) of section 5 shall not, without the consent of the parties or authority from the Court to which he is immediately subordinate, adjudicate upon any suit or other proceeding to which he is a party or in which he is personally interested, or upon any appeal from a decree or order passed by himself.

(*2*) When any such proceeding or appeal comes before the presiding officer of any such Court, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(*3*) The Court to which the record is so transmitted shall thereupon either authorise such presiding officer to proceed with the case or itself dispose thereof under section 25 of the Code of Civil Procedure. XIV of 1882.

(*4*) In either of the following cases, namely :—

(*a*) if an appeal is preferred to the Judicial Commissioner from a decree or order which was passed by him in any other capacity or in which he is personally interested,

(*b*) if an application is made to him for the revision of such a decree or order,

he shall, unless the parties consent to his proceeding with the case himself, transmit the record to the Local Government with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Recorder.

16. Notwithstanding

XIV of 1882.

Power of Deputy Commissioner to distribute business.

16. Notwithstanding anything in the Code of Civil Procedure, a Deputy Commissioner may, by written order, direct that any business cognizable under this Act by his Court and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Language of plaints and of record of evidence in Civil Courts.

17. Notwithstanding anything in the same Code, plaints may be written and evidence may be taken down in such language or languages as the Local Government directs in this behalf.

Civil Appeals and References.

Time for appeal to Commissioner.

18. (*1*) The period of limitation for an appeal to the Court of the Commissioner shall be forty-two days.

(*2*) In the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation

XV of 1877. Act, 1877.

Transfer of civil appellate jurisdiction to Commissioner and Judicial Commissioner.

19. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that the civil appellate jurisdiction of the Court of any Commissioner or Deputy Commissioner shall be transferred to the Court of the Judicial Commissioner or Commissioner, respectively, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

Conferment of appellate powers on

20. (*1*) The Local Government may, by notification

Assistant and Extra Assistant Commissioners.

tion in the Burma Gazette, confer upon any Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk, Extra Assistant Commissioner or Assistant Commissioner, and upon any Extra Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk or Extra Assistant Commissioner, and may withdraw such power.

(*2*) An Assistant Commissioner or Extra Assistant Commissioner upon whom power to hear appeals has been conferred under sub-section (*1*) shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner.

Reference to Judicial Commissioner during progress of an appeal.

21. (*1*) When in the trial of any civil appeal an Appellate Court subordinate to the Court of the Judicial Commissioner entertains a doubt in regard to a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the question in regard to which it entertains the doubt, and refer it, with the Court's own opinion on the question, for the decision of the Judicial Commissioner.

(*2*) The Judicial Commissioner shall, after considering the question so referred, send a ruling thereon to the Court by which the reference was made, and that Court shall, on the receipt of the ruling, proceed to dispose of the case in conformity therewith.

(*3*) The costs, if any, consequent on any such reference to the Judicial Commissioner shall be costs in the appeal out of which the reference arose.

Admission of second appeals by Judicial Commissioners.

22. If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner reverses or modifies an original decree or order, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the

the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

Finality of concurrent decisions of original and first appellate Courts on matters of fact.

23. If the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a matter of fact, the appellate decree or order shall be final.

Reference or appeal to Judicial Commissioner with respect to concurrent decisions of original and first appellate Courts on questions of law.

24. (*1*) If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, any party considering himself aggrieved by such appellate decree or order may apply to the Court of the Deputy Commissioner or Commissioner, as the case may be, either to draw up a statement of the question and submit the statement to the Judicial Commissioner, or to allow him to appeal on the question to the Judicial Commissioner.

(*2*) Such application shall not be admitted unless it is made within the period prescribed for an appeal to the Court of the Deputy Commissioner or Commissioner, as the case may be.

(*3*) If the Court, on an application for the drawing up of a statement, considers that there is a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, it shall draw up a statement of the question and of such facts only of the case as are necessary to explain it, and shall submit the statement, together with the record of the case, to the Judicial Commissioner.

(*4*) If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of the reasons shall, on application

application to the Court, be furnished to any party to the case.

(*5*) In the case of an application to be allowed to appeal to the Judicial Commissioner, the period during which the application was pending in the Court of the Deputy Commissioner or Commissioner shall, if the appeal is allowed, be excluded in the computation of the period of limitation for an appeal to the Judicial Commissioner.

Disposal of references under last foregoing section.

25. (*1*) When a case has been referred with a statement under the last foregoing section, the Judicial Commissioner shall, on payment in respect of the statement of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court, and shall send a copy of his judgment and of his decree or order in the case to the Court by which the statement was submitted.

(*2*) If the statement appears to the Judicial Commissioner to be unduly limited, he may amend it as he thinks fit.

(*3*) Notwithstanding anything in sub-section (*1*), it shall not be necessary for any party to the case referred to be present either personally or otherwise at the trial thereof by the Judicial Commissioner.

Power to call for record where reference or appeal to Judicial Commissioner has been wrongly refused.

26. (*1*) In any case in which the Court of a Deputy Commissioner or Commissioner has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section 24, the Judicial Commissioner may call for the record of the case, and may, on receipt of the record and on payment of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court.

(*2*) Where the Judicial Commissioner so tries the case,

case, he shall send a copy of his judgment and of his decree or order therein to the Court of the Deputy Commissioner or Commissioner, as the case may be.

Reference of questions of law by Judicial Commissioner to High Court.

27. (*1*) If any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence arises in a case before the Court of the Judicial Commissioner under this Act, and the Judicial Commissioner, by reason of such question arising, entertains any doubt as to the decision to be passed in the case, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(*2*) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) Where the Judicial Commissioner makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

XIV of 1882.

(*5*) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Criminal

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 28-31.)

Criminal Jurisdiction.

Judicial Commissioner as High Court.

28. Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the Court of the Judicial Commissioner shall be the highest Court of criminal appeal or revision for the whole of Lower Burma beyond the limits of the ordinary civil jurisdiction of the Recorder.

Divisional Commissioners as Courts of Session.

29. (*1*) Subject to the provisions of sections 7 and 9 of the Code of Criminal Procedure, 1882, with respect to the alteration of the limits of sessions divisions and the appointment of Additional Sessions Judges to exercise jurisdiction in Courts of Session, each division for the time being administered by a Commissioner shall be a sessions division, the Court of the Commissioner shall be the Court of Session for the sessions division, and the Commissioner shall be the Judge of the Court of Session. X of 1882.

(*2*) For the purposes of sub-section (*1*) the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder and the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be deemed not to be included in the divisions in which they are respectively situate.

Court of Session for Town of Maulmain.

30. The area for the time being comprised within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be a sessions division, that Court shall be the Court of Session for the sessions division, and the Judge of that Court shall be the Judge of the Court of Session.

Power to transfer criminal jurisdiction of Commissioner to Judicial Commissioner.

31. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular case or class of cases, and either for a specified time or until further orders.

(*2*) The

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceeding pending at the date of the cancelling order.

Provisions with respect to transferred Jurisdiction.

Application of Acts VII of 1870 and XV of 1877 to certain transferred proceedings.

32. When any civil or criminal appellate jurisdiction has been transferred under section 19 or section 31—

(*a*) fees shall be payable under the Court-fees Act, 1870, and any rules thereunder, at the rates at which they would be payable in the Court from which the jurisdiction was transferred; and

VII of 1870.

(*b*) all appeals and applications presented to a Court in the exercise of the jurisdiction so transferred shall, for the purposes of the law relating to limitation, be deemed to have been presented to the Court in the exercise of its ordinary jurisdiction.

Appointment and Removal of Officers.

Appointment of Civil Judges.

33. (*1*) The Judicial Commissioner shall be appointed by the Governor General in Council.

(*2*) The presiding officers of Courts of the grades specified in clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of section 5 may be appointed by the Local Government.

Suspension and removal of Civil Judges.

34. (*1*) The presiding officer of a Court of a grade specified in any clause of section 5 may be suspended or removed by the Governor General in Council.

(*2*) The presiding officer of any such Court, except the Court of the Judicial Commissioner, may be suspended or removed by the Local Government.

Appointment of ministerial officers of Civil Courts.

35. (*1*) The ministerial officers of Courts of the grades specified in clauses (*a*) and (*b*) of section 5 shall

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Section 36. Chapter IV.—The Court of the Recorder.—Section 37.)

shall be appointed by the Deputy Commissioner to whose Court those Courts are subordinate.

(*2*) The ministerial officers of Courts of other grades specified in section 5 shall be appointed by the presiding officers of those Courts.

(*3*) The foregoing sub-sections are subject to the proviso that the appointment of a ministerial officer to an office in a Court of a grade specified in clause (*a*), (*b*), (*c*), (*d*) or (*e*) of section 5 shall, if the monthly salary attached to the office exceeds fifty rupees, be subject to the sanction of the Judicial Commissioner.

Power to fine or remove such officers.

36. (*1*) A Court of a grade specified in clause (*a*) or (*b*) of section 5 may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

(*2*) The Deputy Commissioner may on appeal or otherwise remit or reduce any fine imposed under sub-section (*1*), and may himself dismiss or suspend, or fine up to the amount of one month's salary, any ministerial officer of his own Court or of any Court subordinate to his Court.

(*3*) A Court of a grade specified in clause (*d*), (*e*) or (*f*) of section 5 may dismiss or suspend any of its ministerial officers or fine any such officer in an amount not exceeding one month's salary.

CHAPTER IV.

THE COURT OF THE RECORDER.

The Recorder.

Court of Recorder of Rangoon.

37. (*1*) There shall continue to be a Court to be called the Court of the Recorder of Rangoon.

(*2*) The

(*2*) The Recorder shall be appointed by the Governor General in Council, and shall be a barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

(*3*) He shall ordinarily hold his Court at Rangoon, but the Local Government may direct him on any particular occasion to hold his Court at any other place in Lower Burma for the trial of any civil case transferred to him, or at any other place in Lower Burma or Upper Burma for the trial of any criminal case in which a European British subject is concerned.

(*4*) A direction given by the Local Government under sub-section (*3*) with respect to any criminal case shall take effect notwithstanding anything in
X of 1882. section 336 of the Code of Criminal Procedure, 1882.

(*5*) The Recorder shall use a seal of such form and dimensions as the Local Government prescribes.

Civil Jurisdiction.

Variation of local limits of ordinary civil jurisdiction of Recorder.

38. The Local Government may, with the previous sanction of the Governor General in Council, vary the local limits of the ordinary civil jurisdiction of the Recorder.

Civil jurisdiction of Recorder.

39. (*1*) Subject to the provisions of this Act and
IX of 1887. of the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Recorder shall have the powers of a District Judge within the local limits of his ordinary civil jurisdiction, and may adjudicate upon any suit, without restriction as regards the value, if, in the case of immoveable property, the subject-matter of the suit or any part thereof is situate, or if, in any other case, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant

servant or agent carries on business or works for gain, within those limits.

(*2*) A corporation or company having an office within those limits shall, when the cause of action, or a material part thereof, has arisen in Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

Appeal from original decrees and orders of Recorder.

40. Save as otherwise provided by any enactment for the time being in force, an appeal shall lie to the High Court from an original decree or order passed by the Recorder in any suit or other civil proceeding of which the amount or value of the subject-matter is less than ten thousand rupees.

New trial and review by Recorder.

41. (*1*) The Recorder may, if he thinks fit, grant a new trial in any suit or other civil proceeding disposed of by him, if in a suit relating to immoveable property the new trial is applied for within ninety days from the date of the decree, and if in any other case it is applied for within thirty days from the date of the decree or order:

Provided that nothing in this section shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review is applied for within the period allowed for making the application: XIV of 1882.

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying therefor to give sufficient security for due compliance with the terms of the decree or order to which the application relates, or for payment of the costs of the new trial or review, or for both purposes.

(*2*) Where a person has become liable as surety under the second proviso to sub-section (*1*), the security may be realised in manner provided by section 253 of the Code of Civil Procedure.

42. (*1*) If

Reference of cases by Recorder to High Court and procedure thereon.

42. (*1*) If in any case before the Recorder any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case arises on which the Recorder entertains any doubt, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(*2*) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Recorder a copy of its judgment under the signature of its Registrar, and the Recorder shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) Where the Recorder makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

XIV of 1882.

(*5*) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Procedure where Recorder is personally interested in a case.

43. (*1*) When any suit or other civil proceeding comes before the Recorder to which he is a party or in which he is personally interested, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Local Government, with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Judicial Commissioner.

(*2*) In

(*2*) In the disposal of a case so transferred the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in a like case, and the decree or order made in the case by the Judicial Commissioner shall, for the purposes of the law relating to appeal, be deemed to be made by the Recorder.

Recorder as High Court for certain purposes.

44. The Court of the Recorder shall—

(*a*) for the purposes of the Suits Valuation Act, 1887, and VII of 1887.

(*b*) in respect of the Court of Small Causes of Rangoon,

be deemed to be a High Court.

Criminal Jurisdiction.

Recorder as Court of Session for Rangoon.

45. The area for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder shall be a sessions division, the Court of the Recorder shall be the Court of Sessions for the sessions division, and the Recorder shall be the Judge of the Court of Session.

Recorder as High Court for Burma in reference to proceedings against European British subjects.

46. (*1*) The Recorder shall be the High Court for the whole of Burma (inclusive of Upper Burma and the Shan States) in reference to proceedings against European British subjects and persons jointly charged with European British subjects.

(*2*) When the Recorder, as the High Court for Burma under sub-section (*1*) in reference to such proceedings, passes sentence of death, the proceedings shall be submitted to the High Court of Judicature at Fort William in Bengal, and the sentence shall not be executed unless it is confirmed by that High Court.

(*3*) When proceedings are submitted to the High Court under sub-section (*2*), that Court shall, as a High Court, deal therewith, under the provisions,

mutatis

mutatis mutandis, of Chapter XXVII of the Code of
X of 1882. Criminal Procedure, 1882, as if they had been submitted by a Court of Session and the Recorder were the Sessions Judge.

(*4*) If in any case before the Recorder as a High Court under this section any such question arises as is referred to in section 42, and the Government Advocate certifies that in his opinion there is an error in the decision of the question, the Recorder shall make a reference to the High Court in the manner required by that section, and shall, on receipt of the copy of the judgment of the High Court, review the case or such part of it as may be necessary, and may thereupon reduce or remit any sentence which he has passed.

Effect of the last foregoing section with respect to Shan States.

47. So far as the last foregoing section relates to the Shan States, it shall come into force therein at once notwithstanding anything in section 8, sub-section (*2*), of the Upper Burma Laws Act, 1886, or in
XX of 1886. section 3, sub-section (*1*), of the Shan States Act,
XV of 1888. 1888.

Recorder as High Court for certain purposes.

48. The Court of the Recorder shall—

(*a*) for the purposes of section 527 of the Code of
X of 1882. Criminal Procedure, 1882, and

(*b*) in respect of the Magistrates within the local limits of its ordinary civil jurisdiction and the proceedings of such Magistrates,

be deemed to be a High Court.

Admiralty Jurisdiction.

Admiralty jurisdiction of Recorder.

49. (*1*) Throughout Lower Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions

tions as may now be exercised by the said High Court.

(*2*) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure, and, in cases to which the rules contained in that Code are not applicable, the procedure shall be in accordance with the rules for the time being applicable to like cases in the High Court. XIV of 1882.

(*3*) An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section, subject to the laws, rules and orders for the time being in force regarding appeals to the High Court under the Code of Civil Procedure.

Insolvency Jurisdiction.

Insolvency jurisdiction of Recorder.

50. (*1*) Within the local limits of the ordinary civil jurisdiction of the Recorder, and of the jurisdiction of the Court of the Judge of the Town of Maulmain, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercise-able with respect to insolvent debtors and their creditors by the High Court or a Judge thereof in Calcutta.

(*2*) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the Statute 11 and 12 Victoria, chapter 21, as amended by any enactment for the time being in force.

(*3*) The Recorder shall, with the previous sanction of the Local Government, appoint a person to be official assignee in all insolvencies prosecuted in the Court of the Recorder, and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis*, and subject to the other provisions of this section, apply to the assignee so appointed.

(*4*) Every

(*4*) Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof, and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

(*5*) Any person considering himself aggrieved by any adjudication, order or proceeding of the Recorder under this section may, within thirty days from the date thereof, present a petition to the Special Court, and that Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

(*6*) The Recorder may from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given.

(*7*) No conveyance, letter-of-attorney or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section shall be chargeable with stamp-duty.

Power to vest in Judge of Town of Maulmain the insolvency jurisdiction vested in Recorder in that Town.

51. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that, from a date to be therein specified, the jurisdiction vested by the last foregoing section in the Recorder within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be vested in the Judge of that Town.

(*2*) While any such order is in force, the last foregoing section shall, within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain, have effect as if it referred to the Judge of that Town instead of to the Recorder, and all cases pending

pending at the date of the order shall be disposed of accordingly:

Provided that the Recorder may withdraw from the Court of the Judge and dispose of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(*3*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

Inapplicability of Chapter XX, Act XIV, 1882, to Rangoon and Maulmain.

52. Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the local limits of the ordinary civil jurisdiction of the Recorder or of the civil jurisdiction of the Court of the Judge of the Town of Maulmain. XIV of 1882.

Temporary continuance of insolvency jurisdiction of Recorder at Bassein and Deputy Commissioner at Akyab.

53. The provisions of section 66 of the Burma Courts Act, 1875, and section 2 of the Burma Courts Act, 1885, shall continue to apply, as if this Act had not been passed, to any proceedings pending immediately before the commencement of this Act in the Courts of the Recorder and the Deputy Commissioner of Akyab as Courts for the Relief of Insolvent Debtors within the towns of Bassein and Akyab under those sections. XVII of 1875. XIV of 1885.

Registers and Returns.

Books and accounts, and statements and returns, to be kept and furnished by Recorder.

54. (*1*) The Recorder shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Local Government such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Local Government.

(*2*) The Recorder shall also comply, in such form and manner as the Local Government may deem proper, with such requisitions as may be made by the Local

Local Government for records of, or papers belonging to, the Court of the Recorder or any Court with respect to which the Court of the Recorder is under section 41 or section 48 to be deemed to be a High Court, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

Ministerial Officers.

Appointment and removal of ministerial officers.

55. The ministerial officers of the Court of the Recorder, including the Registrar of the Court, shall be appointed, and may be dismissed or suspended, or fined in an amount not exceeding one month's salary, by the Recorder, but the suspension or dismissal of any such officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

Discharge of non-judicial functions by Registrar.

56. (*1*) Any non-judicial or quasi-judicial act which is required by the Code of Civil Procedure to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code, may in the Court of the Recorder be done by the Registrar of the Court or by such other officer of the Court as the Recorder may direct. XIV of 1882.

(*2*) The Recorder may from time to time, by rule made with the previous sanction of the Local Government, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of subsection (*1*).

Exceptional Provisions.

Discharge of functions of Recorder in case of vacancy in his office.

57. Upon the occurrence of any vacancy in the office of Recorder and during any absence of the Recorder, the Local Government may direct the Judicial Commissioner or any Commissioner to discharge the functions of the Recorder, and the Judicial Commissioner or the Commissioner so directed shall thereupon

thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill, or officiate in, the office of the Recorder, and has entered upon the performance of the duties of such office, or until the Recorder resumes his duties.

Transfer of civil cases from other Courts in Lower Burma to Court of Recorder.

58. (*1*) The Local Government may direct the transfer to the Court of the Recorder of any civil case which may be pending in the Court of the Judicial Commissioner, or in any Court subordinate to the Court of the Judicial Commissioner.

(*2*) Subject to the other provisions of this Act, every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in the case and it had been instituted in his Court.

Transfer of cases from Court of Recorder to Court of Judicial Commissioner.

59. (*1*) The Local Government may transfer to the Court of the Judicial Commissioner any particular case or class of cases which may be pending in the Court of the Recorder.

(*2*) In the disposal of any such case the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in such a case.

(*3*) All decrees, orders and sentences made or passed by the Judicial Commissioner in cases transferred to him under this section shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

Appointment of additional Recorder.

60. (*1*) The Governor General in Council may, by notification in the Gazette of India, appoint, to be an Additional Recorder and to sit as such in the Court of the Recorder, such person as he thinks fit being a barrister

barrister of not less than five years' standing, or a person who has for at least three years served as a District Judge or exercised the like powers as those of a District Judge.

(*2*) A person so appointed shall hold his office during the pleasure of the Governor General in Council.

Disposal of business by Additional Recorder.

61. (*1*) An Additional Recorder appointed under the last foregoing section shall sit at such of the places at which the Recorder's Court can be held as the Local Government directs, and shall dispose of such cases pending in the Recorder's Court as the Local Government or, subject to the control of that Government, the Recorder may from time to time direct, and in the disposal of such cases shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(*2*) All decrees, orders and sentences made or passed in such cases by an Additional Recorder shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

(*3*) The Local Government may cancel any direction under sub-section (*1*) requiring the Additional Recorder to dispose of a case.

CHAPTER V.

THE SPECIAL COURT.

Constitution of Special Court.

62. (*1*) The Special Court shall ordinarily be constituted by the Judicial Commissioner and the Recorder sitting together.

(*2*) But

(*2*) But the Local Government may direct that for the hearing of any particular case or class of cases the Special Court shall be constituted by the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together, and the Local Government may cancel any such direction.

(*3*) As members of the Special Court, the Judicial Commissioner and the Recorder shall have precedence over the Judge of the Town of Maulmain, and shall, as between themselves, have precedence according to priority of appointment.

(*4*) For the purposes of the last foregoing sub-section a Judicial Commissioner or Recorder substantively appointed shall be deemed to have precedence, by reason of priority of appointment, over an officiating Recorder or Judicial Commissioner, as the case may be.

Sittings, seal and officers of Special Court.

63. (*1*) The Special Court shall ordinarily be held at Rangoon, but the Local Government may direct it to be held at any other place in Lower Burma.

(*2*) The Special Court shall use a seal of such form and dimensions as the Local Government prescribes.

(*3*) The Judicial Commissioner and the Recorder may appoint, suspend or dismiss the ministerial officers of the Special Court:

Provided that the suspension or dismissal of any officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

Appeals to Special Court from Judge of Maulmain.

64. Appeals from decrees and orders passed by the Judge of the Town of Maulmain in suits and other civil proceedings shall, where such appeals are allowed by law, be heard and determined by the Special Court.

Trial of cases before Special Court by order of Local Government.

65. The Local Government may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in

in the Court of the Recorder shall be transferred to and tried before the Special Court.

Special Court as High Court in certain criminal matters.

66. With reference to trials held by the Judicial Commissioner in the exercise of the original criminal jurisdiction of a Court of Session under section 31 of this Act or of a High Court under section 526 of the Code of Criminal Procedure, 1882, or by the Recorder in exercise of the original jurisdiction of a Court of Session, and to sentences passed on such trials, the Special Court shall, for the purposes of the said Code, be deemed to be a High Court.

of 1882.

Sittings of Special Court at request of Judicial Commissioner or Recorder.

67. If, in any civil suit or appeal or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder, the Court wishes to obtain the opinion of the Special Court on any question of fact or law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, or to obtain the assistance of the Special Court for the determination of the case pending before it, such Court shall record a memorandum to that effect, and the Special Court shall, as soon as may be convenient, sit for the disposal of the question or for the determination of the pending case.

Decree of Special Court to be deemed decree of other Court in certain cases.

68. Any decree, order or sentence passed by the Special Court in a case tried under section 65, or on a memorandum recorded under section 67, shall issue as, and be deemed to be, a decree, order or sentence of the Court from which the case was referred to the Special Court.

Rules as to finding of Special Court in case of difference of opinion.

69. (*1*) Whenever, in cases before the Judicial Commissioner and the Recorder sitting together as the Special Court, a difference of opinion arises, the following rules shall be observed:—

(*a*) In cases coming before the Special Court under section 67, the opinion of the Court which sought the opinion of the Special Court shall prevail unless the difference of opinion

opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and both members of the Special Court concur in stating the question and forwarding such statement, with their respective opinions on the question, to the High Court.

(*b*) In cases coming before the Special Court by way of appeal, and not being criminal cases or cases provided for by clause (*a*) of this sub-section, if both members of the Special Court do not concur in a judgment varying the decree or order appealed from, such decree or order shall be upheld:

Provided that, if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and either member of the Special Court is of opinion that the question should be referred to the High Court, both members shall state the question and forward such statement, with their respective opinions on the question, to the High Court.

(*c*) In criminal cases and in cases not coming before the Special Court by way of appeal and not being cases provided for by clause (*a*) of this sub-section, both members of the Special Court shall state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

(*2*) Whenever, in cases before the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together as the Special Court, a difference of opinion arises, the decision shall be in accordance with the opinion of the majority of the members of the Court.

70. (*1*) On

Procedure of High Court on reference under the last foregoing section.

70. (*1*) On receiving a statement forwarded in any case under the last foregoing section, the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Special Court a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Recorder sitting together as the Special Court shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*2*) Until the case is so disposed of, it shall be deemed to be pending in the Special Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

Special Court to be deemed a High Court for the purposes of Acts VII of 1870 and XV of 1877.

VII of 1870.

71. (*1*) For the purposes of the Court-fees Act, 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

(*2*) For the purposes of the Indian Limitation Act, 1877, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Criminal Procedure, 1882, or under the Code of Civil Procedure, as the case may be.

XV of 1877.

X of 1882.

XIV of 1882.

Substitution of Additional Recorder for Judge of Town of Maulmain for purposes of this Chapter.

72. If at any time there is an Additional Recorder appointed under section 60, the foregoing provisions of this Chapter with respect to the Judge of the Town of Maulmain shall, while the Additional Recorder holds office, be construed as referring to the Additional Recorder and not to the Judge of the Town of Maulmain.

CHAPTER VI.

CHAPTER VI.

ADVOCATES.

In the Court of the Recorder and the Courts subordinate thereto.

Licensing of advocates by Recorder.

73. (*1*) Subject to the other provisions of this Chapter, no person shall be permitted to appear, plead or act as an advocate in the Court of the Recorder, or in any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or in the Court of the Judicial Commissioner when the Judicial Commissioner is disposing of a case transferred to him under section 43 or section 59, unless such person has been licensed thereto by the Recorder, either generally or specially.

(*2*) The Recorder may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

Suspension or withdrawal of license by Recorder.

74. (*1*) The Recorder may, for any sufficient reason, by order suspend or withdraw any license granted by him under the last foregoing section.

(*2*) Any person aggrieved by an order of the Recorder under sub-section (*1*) may appeal to the High Court, and, for the purposes of the Indian Limitation Act, 1877, his appeal shall be deemed to be an appeal under the Code of Civil Procedure. XV of 1877. XIV of 1882.

In the Court of the Judicial Commissioner and the Courts subordinate thereto.

Licensing of advocates by Judicial Commissioner.

75. (*1*) Subject to the other provisions of this Chapter, no person shall be permitted to appear, plead or act as an advocate in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, or in the Court of the Recorder

Recorder when the Recorder is disposing of a case transferred to his Court under section 15 or section 58, unless such person has been licensed thereto by the Judicial Commissioner, either generally or specially.

(*2*) The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts, and for the suspension or dismissal of any such advocates who are guilty of fraudulent or grossly improper conduct.

Provisos.

Provisos to the two last foregoing sections.

76. The two last foregoing sections and any rules thereunder shall be subject to the following provisos, namely :—

(*a*) any person having general or special authority from the Local Government may, without any license from the Recorder or the Judicial Commissioner, appear, plead or act for the Secretary of State for India in Council;

(*b*) a party may, without any such license, appear, plead or act on behalf of himself or a co-party ;

(*c*) a person who for the time being is an advocate, vakil or attorney-at-law of any of the High Courts of Judicature in India may, without any such license, appear, plead or act as an advocate ; and

(*d*) nothing in the sections or the rules shall be deemed to affect section 340 of the Code of Criminal Procedure, 1882.

X of 1882.

In the Special Court.

Advocates in Special Court.

77. Any person for the time being authorised by or under the foregoing provisions of this Chapter to appear

appear, plead or act in the Court of the Recorder or in the Court of the Judicial Commissioner may also appear, plead or act, as the case may be, in the Special Court.

Discipline and Fees.

Penalty for acting as an Advocate without authority.

78. Any person appearing, pleading or acting in any Court in contravention of the foregoing provisions of this Chapter or the rules thereunder shall be liable, by order of the Court, to a fine which may extend to five hundred rupees.

Taxation of fees of advocates.

79. The fees to be received by any advocate for business done in any Court under this Act shall at all times be subject to the control and taxation of the presiding Judge, and no such fees shall be recoverable unless they have been allowed on taxation by the Judge or such officer as he appoints in this behalf.

Rules as to fees of advocates.

80. (*1*) The Judicial Commissioner may from time to time make rules regulating the fees payable to advocates in his own Court and in Courts subordinate to him; and

(*2*) The Recorder may from time to time make rules regulating the fees payable to advocates in his own Court and in the Court of Small Causes of Rangoon; and

(*3*) The Judicial Commissioner and the Recorder may from time to time make rules regulating the fees payable to advocates in the Special Court.

Touting.

Penalty for receiving or giving commission.

81. (*1*) Whoever commits any of the following offences:—

(*a*) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(*b*) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered

delivered to any legal practitioner for such employment;

(*c*) being a legal practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) The expression "legal practitioner" in sub-section (*1*) means any person licensed as an advocate under section 73 or section 75 or appearing, pleading or acting as an advocate under section 76, clause (*c*), without a license.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Court of Small Causes of Rangoon.

Court of Small Causes of Rangoon.

82. (*1*) The Governor General in Council shall be deemed to have had authority, under section 15 of Act XI of 1865, from time to time to invest any person for an unlimited time with the powers of a Judge of the Court of Small Causes of Rangoon.

(*2*) The persons who have since the thirtieth day of June, 1887, held, or are at the commencement of this Act or may be thereafter holding, office by the names of First Judge and Second Judge of the Court of Small Causes of Rangoon shall be deemed to have been appointed to the offices of Judge and Additional Judge, respectively, under section 6, sub-section (*1*), and section 8, sub-section (*1*), of the Provincial Small Cause Courts Act, 1887.

IX of 1887.

(*3*) Notwithstanding anything in section 8, sub-section (*2*), of that Act, the Local Government may make

make rules restricting, in such manner as it thinks fit, the functions which the Judge of the Court of Small Causes of Rangoon may assign to the Additional Judge of that Court, and any rules or instructions made or issued before the commencement of this Act for defining the respective functions of the Judges of that Court shall be deemed to have been lawfully made or issued, and shall, until they are varied by the Local Government, be deemed after the commencement of this Act to be rules under this sub-section.

(*4*) Notwithstanding anything in the Code of Civil Procedure, all or any proceedings, written or oral, before the Additional Judge of the Court of Small Causes of Rangoon shall be in such language as the Local Government may prescribe. XIV of 1882.

Enhancement of powers of Judge of Court of Small Causes of Rangoon.

83. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that such suits of a civil nature as are not excepted from the cognizance of a Court of Small Causes by section 15, sub-section (*1*), of the Provincial Small Cause Courts Act, 1887, and are of value exceeding one thousand and not exceeding two thousand rupees, shall be cognizable by the Judge of the Court of Small Causes of Rangoon as if they were suits cognizable by him under the said Act, and thereupon so much of that Act as relates to— IX of 1887.

(*a*) the exclusion of the jurisdiction of any other Court in such suits,

(*b*) the practice and procedure of Courts of Small Causes,

(*c*) appeal from certain orders of those Courts and revision of cases decided by them, and

(*d*) the finality of their decrees and orders subject to such appeal and revision as are provided by the said Act,

shall apply to such suits and to the trial thereof and the decrees and orders therein.

(*2*) The

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

VII of 1870.

84. In the first schedule to the Court-fees Act, 1870, after No. 13, the following shall be inserted, namely:— Court-fees on applications to Recorder for exercise of revisional jurisdiction over Court of Small Causes of Rangoon.

Number.		Proper fee.
"14. Application to the Court of the Recorder of Rangoon for the exercise of the revisional jurisdiction of a High Court over the Court of Small Causes of Rangoon under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupees.
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal."

XIV of 1882.

IX of 1887.

85. If the Recorder, on an application under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887, on which a fee has been paid under the Court-fees Act, 1870, as amended by the last foregoing section, sets aside or modifies the decree or order of the Court of Small Causes, or remands the case for a fresh decision, he may grant to the applicant a certificate authorising him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, he may think proper to order to be refunded. Refund of fees paid on applications to Recorder for revision.

XIV of 1882. IX of 1887. VII of 1870.

Court of the Judge of the Town of Maulmain.

86. (*1*) The Local Government may, by notification in the Burma Gazette, confer, within the local limits Conferment of subsidiary jurisdiction in small

causes in Maulmain.

limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain,—

(*a*) upon any Extra Assistant Commissioner or Assistant Commissioner at Maulmain the jurisdiction of an Additional Judge of a Court of Small Causes, and

(*b*) upon the chief ministerial officer of the Court of the Judge of the Town of Maulmain all or any of the powers conferred or conferable by or under the Provincial Small Cause Courts Act, 1887, upon the Registrar of a Court of Small Causes. IX of 1887.

(*2*) For purposes connected with the exercise of jurisdiction and powers so conferred, the provisions of the Provincial Small Cause Courts Act, 1887, shall, so far as they can be made applicable, apply as if the Court of the Judge of the Town of Maulmain were a Court of Small Causes, and the Judge of that Town and the Extra Assistant Commissioner or Assistant Commissioner were respectively the Judge and the Additional Judge of the Court, and the chief ministerial officer were the Registrar thereof.

(*3*) The Local Government may withdraw any jurisdiction or powers conferred under this section.

Jurisdiction of the Court under Act XIII of 1874.

87. The Judge of the Town of Maulmain shall, for the purposes of the European British Minors Act, 1874, sections 2 and 8, be deemed to be a Deputy Commissioner: XIII of 18.

Provided that appeals from his orders under that Act shall lie to the Special Court.

Powers, Holidays and other Matters.

Powers with respect to ministerial officers of Courts.

88. (*1*) The Local Government shall have a power of general control over all appointments and punishments of ministerial officers of Courts under this Act.

(*2*) Any fine imposed on a ministerial officer of such a Court may, unless the order imposing it otherwise

wise directs, be recovered by deduction from such officer's salary.

Power of Local Government to make rules as to process-serving establishments.

89. The Local Government may, with the previous sanction of the Governor General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870, or under this Act.

VII of 1870.

Mode of appointment and confering powers.

90. The Local Government may, when it is empowered by this Act to make any appointment or confer any powers, appoint, or confer the powers on, any person either specially by name or generally by virtue of his office.

Powers to make rules as to fees and other matters in Courts of Judicial Commissioner and Recorder and in Special Court.

91. (*1*) The Judicial Commissioner, so far as regards his own Court and the Courts subordinate thereto, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to the fees to be charged in respect of any of the following matters, namely:—

(*a*) the making of copies and translations;

(*b*) the inspection of records, books and registers; and

(*c*) any other matter in respect of which fees are for the time being chargeable under the authority of the High Court in any part of the Bengal Division of the Presidency of Fort William.

(*2*) The Recorder may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules,—

(*a*) so far as regards his own Court and any Court with respect to which the Court of the Recorder is under section 44 or section 48 to

be

be deemed to be a High Court, as to any of the following matters, namely:—

(i) the regulation of practice and procedure;

(ii) the service and execution of processes, and the fees to be charged therefor;

(iii) subject to the provisions of section 554 of the Code of Criminal Procedure, 1882, and section 644 of the Code of Civil Procedure, the forms to be used for any proceedings; and X of 1882. XIV of 1882.

(iv) any matter specified or referred to in clause (*a*), clause (*b*) or clause (*c*) of sub-section (*1*); and

(*b*) so far as regards his own Court and the Court of the Judge of the Town of Maulmain, as Courts for the Relief of Insolvent Debtors under this Act, as to the remuneration to be allowed to the official assignees and to the other officers of those Courts.

(*3*) The Judicial Commissioner and the Recorder, so far as regards the Special Court, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to any of the following matters, namely:—

(*a*) the regulation of the times and places for the sitting of the Court;

(*b*) the distribution of business among the Judges thereof; and

(*c*) any matters specified or referred to in clause (*a*) of sub-section (*2*).

Power to make rules as to judgments, evidence and affidavits in Courts of Judicial Commissioner and

92. (*1*) The Judicial Commissioner and the Recorder for their respective Courts, and the Judicial Commissioner and the Recorder for the Special Court, may also make rules to provide for—

(*a*) the recording of judgments, orders and sentences;

(*b*) the

(*b*) the taking down of the evidence of witnesses; and Recorder and in Special Court.

(*c*) the admission of affidavits as evidence of the matters to which such affidavits relate: and

(*2*) The Local Government, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder or the Special Court, as the case may be, from the operation of such parts of the Code of Criminal Procedure, 1882, and the Code of Civil Procedure, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

X of 1882.
XIV of 1882.

93. If the Judicial Commissioner and the Recorder differ in opinion as to the appointment, suspension or dismissal of a ministerial officer of the Special Court under section 63, sub-section (*3*), or as to any rule for the Special Court under section 91, sub-section (*3*), or section 92, the difference shall be referred to the Local Government, and the order of that Government thereon shall be final. Differences of opinion between Judicial Commissioner and Recorder as administrative representatives of Special Court.

94. (*1*) The Judicial Commissioner and the Recorder, respectively, with the approval of the Local Government, shall publish in the Burma Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays in their own Courts and the Courts respectively subject to their authority. Holidays.

(*2*) A judicial act done by a Court on a day specified in the list as a day to be observed by the Court as a holiday shall not be invalid by reason only of its having been done on that day.

95. (*1*) Where a Court has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein Continuance of proceedings of abolished Courts.

therein may be had in the Court to which the business of the former Court has been transferred.

(*2*) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force. XIV of 1882.

Publication of rules in Burma Gazette.

96. No rule made under this Act shall take effect until it has been published in the Burma Gazette.

Laws.

Modification of certain enactments.

97. In the enactments mentioned in the second schedule, for the words specified in the third column of that schedule, there shall be substituted the words specified in the fourth column thereof.

Amendment of sections 7 and 8, Act XV of 1869.

98. (*1*) For the last paragraph of section 7 of the Prisoners' Testimony Act, 1869, the following shall be substituted, namely:— XV of 1869.

"For the purposes of this Act, every jail in Lower Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner, and the Recorder of Rangoon may issue orders under this section or section 3 or 4, and may also issue commissions under Part III of this Act, in any jail in Lower Burma."

(*2*) For the second paragraph of section 8 of the same Act the following shall be substituted, namely:—

"To obtain the removal of a person confined in a jail situate beyond the limits of Lower Burma for the purpose of giving evidence in any criminal matter in any Court within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, the Recorder shall have the former conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply."

99. (*1*) Act

Saving of Act XL of 1858 and Bengal Regulations V of 1799 and III of 1818.

99. (*1*) Act XL of 1858 is hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout Lower Burma.

(*2*) The unrepealed portions of Regulation V of 1799, section 7, and Regulation III of 1818, of the Bengal Code, shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma, and the former of those enactments shall have effect, and, so far as may be necessary to validate anything heretofore done thereunder by the Local Government, shall be deemed to have had effect, as if the Local Government were therein referred to instead of the Governor General in Council.

Certain references to Act VII of 1874 to be read as references to Act XVII of 1884.

II of 1880. XXII of 1883. VII of 1874. XV of 1879.

100. The references in section 1 of the Burma District Cesses and Rural Police Act, 1880, and section 2 of the Rangoon Tramways Act, 1883, to the British Burma Municipal Act, 1874, and in section 1 of the Rangoon Port Commissioners Act, 1879, to the Chief Commissioner of British Burma under the British Burma Municipal Act, 1874, section 28, shall be deemed to be, and on and from the third day of January, 1885, to have been, references to the Burma Municipal Act, 1884, and to the Local Government under the Burma Municipal Act, 1884, section 60, clause (*c*), respectively.

XVII of 1884.

Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts.

X of 1882.

101. In the tracts of country respectively known as the Salween District and the Hill District of Arakan section 20 of Act V of 1861 shall not apply to any police-officer appointed under section 4 of that Act, and notwithstanding anything in the Code of Criminal Procedure, 1882, the Local Government shall be deemed to have, and always to have had, power to confer on any such police-officer in either of those tracts all or any of the powers conferred or conferable by or under that Code on any Magistrate in regard to particular cases or to a particular class or particular classes of cases or to cases generally.

102. To

(Chapter VII.—Supplemental Provisions.—Sections 102-103. The First Schedule.—Enactments repealed.)

Correction of schedule to Regulation IX of 1874.

102. To the first division (*Acts*) of the schedule to the Arakan Hill District Laws Regulation, 1874, the enactments specified in the third schedule shall be added. IX of 1874

Saving of Regulations in force in the Hill District of Arakan.

103. Save as expressly provided by this Act nothing therein shall be construed to affect any Regulation in force at the commencement of this Act in the Hill District of Arakan under the Statute 33 Victoria, chapter 3, section 1.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
1	2	3
	Acts of the Governor General in Council.	
XVI of 1872 .	Burma Spirit Duty Act, 1872.	The whole, in so far as it may not already have been repealed.
VII of 1874 .	British Burma Municipal Act, 1874.	The whole.
XVII of 1875 .	Burma Courts Act, 1875 .	So much as has not been repealed.
XIII of 1877 .	Burma Embankment Act, 1877.	The portion of section 8 beginning with the words "and nothing" and ending with the words "of this Act."
XI of 1880 .	Burma Courts Act, 1880 .	The whole.
X of 1884 .	Burma Courts Act, 1884 .	The whole.
XIV of 1885 .	Burma Courts Act, 1885 .	The whole
XVI of 1886 .	Lower Burma Gaols Delivery Act, 1886.	The whole.
XX of 1886 .	Upper Burma Laws Act, 1886.	So much of the second schedule as relates to Bengal Regulation XI of 1812 (*Removal of Foreign Emigrants*) and to Acts XV of 1859 (*Inventions*), XXVII of 1860 (*Collection of Debts on Successions*), XIII of 1872 (*Patterns and Designs*) and XI of 1865 (*Mufassal Small Cause Courts*).

Regulations

THE FIRST SCHEDULE—*continued.*

Number and year.	Title.	Extent of repeal.
1	2	3
Regulations under the Statute 33 Victoria, chapter 3, section 1.		
IX of 1874	Arakan Hill District Laws Regulation, 1874.	The first and second paragraphs of section 4, the whole of sections 6 to 9 (both inclusive) and so much of the schedule as relates to Acts III of 1846 (*Boundary-marks*), XXXIII of 1852 (*Enforcement of Judgments*), XV of 1859 (*Patents*), VIII of 1860 (*Electric Telegraphs*), XXVII of 1860 (*Collection of Debts on Successions*) III of 1871 (*Paper Currency*), IX of 1871 (*Limitation*), XI of 1872 (*Foreign Jurisdiction and Extradition*), and VII of 1874 (*British Burma Municipal Act*).
VII of 1886	Upper Burma Criminal Justice Regulation, 1886.	Section 1, sub-section (*2*), of the schedule.

THE SECOND SCHEDULE.

ENACTMENTS MODIFIED.

(*See section 97.*)

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
Acts of the Governor General in Council.			
IV of 1869	Indian Divorce Act.	In section 3, clause (*1*), the words "in British Burma—the High Court of Judicature at Fort William in Bengal." In section 3, clause (*2*), the words— "in the Non-Regulation Provinces, other than British Burma and Sindh—a Commissioner of a division; in Pegu—the Recorder at Rangoon; in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab and thenceforward the Recorder at Akyab;	The words— "in Burma—the Special Court constituted under the Lower Burma Courts Act, 1889;". The words— "in the Non-Regulation Provinces, other than Sindh and the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon and of the civil jurisdiction of the Court of the Judge of the Town of Maulmain—a Commissioner of a division; in Sindh—the Judicial

(The Second Schedule.—Enactments modified. The Third Schedule.—Enactments to be added to Schedule to Regulation IX of 1874.)

THE SECOND SCHEDULE—*continued.*

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
		Acts of the Governor General in Council—continued.	
		in the Tenasserim Provinces—the Recorder at Maulmain; in Sindh—the Judicial Commissioner in that Province."	Commissioner of that Province; in the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Maulmain, respectively;".
X of 1882 .	Code of Criminal Procedure, 1882.	In section 4, clause (*j*), the words "the Senior Judge of a Chief Court:".	The words "the Senior Judge of the Chief Court of the Punjab and the Recorder of Rangoon;".
		In section 266, the words "the Chief Court of the Punjab,".	The words "the Chief Court of the Punjab, the Court of the Recorder of Rangoon,".
		Regulations under the Statute 33 Victoria, chapter 3, section 1.	
IX of 1874 .	Arakan Hill District Laws Regulation, 1874.	In section 5, the words from and inclusive of "Act No. XXXI of 1860" down to and inclusive of the word "but".	The words "Notwithstanding anything in the Indian Arms Act, 1878, or in any rule under that Act,". XI of 1878
VII of 1886 .	Upper Burma Criminal Justice Regulation, 1886.	In the schedule, section 1, sub-section (*1*), the words— "(*i*) in reference to proceedings against European British subjects, the Recorder of Rangoon; and (*ii*) in reference to proceedings against other persons".	The words "except in reference to proceedings against European British subjects or persons jointly charged with European British subjects—."

THE THIRD SCHEDULE.

ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.

(See section 102.)

Number and year.	Subject.	Extent of application.	Modifications.
*	*	*	*
XIII of 1874 .	European British Minors.	The whole Act.	
XIV of 1874 .	Scheduled Districts .	The whole Act, except section 10.	
XV of 1874 .	Laws Local Extent . .	The whole Act, except sections 4, 5, 6 and 7.	
V of 1875 .	Unattested Sepoys . .	The whole Act.	
VII of 1875 .	Burma Fisheries . .	The whole Act.	
IX of 1875 .	Majority . . .	The whole Act.	

Government of India Central Printing Office.—No. 147 L. D.—25-8-89.—4,400.—A. E. deS.

ACT No. XII OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 4th September, 1889.)

An Act to amend the Indian Merchandise Marks Act, 1889.

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November, 1889, without having their length stamped thereon in standard yards, or in standard yards and a fraction of such a yard; It is hereby enacted as follows:—

Power for Local Government to temporarily suspend operation of section 18, Act VIII, 1878, as regards piece-goods.

VIII of 1878. IV of 1889.

1. (*1*) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (*2*), of the Indian Merchandise Marks Act, 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October, 1889.

(*2*) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (*1*).

[*Price one anna.*]

Government of India Central Printing Office.—No. 177 L. D.—17-9-89.—4,400.—A. F. de S.

THE CANTONMENTS ACT, 1889.

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[*Price six annas.*]

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ACT No. XIII OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 11th October, 1889.)

An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Cantonments Act, 1889.

(*2*) It extends to the whole of British India, inclusive of Upper Burma; and

(*3*) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.

Repeal.

2. (*1*) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof:

(*2*) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively

respectively made, given, imposed and published, and to have been defined, under this Act.

(*3*) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bázárs, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Interpretation.

3. (*1*) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(*a*) "officer" means—

(*i*) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

44 & 45 Vict., c. 58.

(*ii*) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881:

(*b*) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act:

(*c*) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare

declare to be a spirituous liquor for the purposes of this Act:

(*d*) "intoxicating drug" means opium, ganja, bhang, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act: and

(*e*) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

I of 1868. I of 1887. (*2*) The provisions of the General Clauses Acts, 1868 and 1887, shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor General in Council.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

Definition of cantonments

4. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may withdraw any such declaration.

(*2*) The Local Government, with the like sanction, may

may also, by a like notification, define the limits of any cantonment for the like purposes.

Cantonment Authorities and Magistrates.

Cantonment authority and Magistrate.

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

Cantonment authority.

6. (*1*) The expression "cantonment authority" as used in this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment.

(*2*) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.

(*3*) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, ~~Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*)~~, the Indian Telegraph Act, 1885, and the General Clauses Act, 1887.

Cantonment Magistrate.

7. The Cantonment Magistrate shall be a Magistrate appointed by the Local Government under section 12 of the Code of Criminal Procedure, 1882, and, as such, subordinate to the District Magistrate or to the District Magistrate and the Subdivisional Magistrate, as the case may be, under section 17 of that Code. X of 1882.

Cantonment Court of Small Causes.

Appointment of Cantonment Magistrate as Judge of Cantonment Court of Small Causes.

8. (*1*) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the Provincial Small Cause Courts Act, 1887, it IX of 1887. shall, in its order appointing him to be such Judge, declare, and may by notification in the official Gazette vary, within a limit of five hundred rupees, the value of the suits which are to be cognizable by him under that Act.

(*2*) The

(*2*) The provisions of section 15, sub-section (*3*), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

Appointment of Additional Judge of Cantonment Court of Small Causes.

9. When the Local Government appoints an Additional Judge of a Court of Small Causes, of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

IX of 1887.

Judges of existing Cantonment Courts of Small Causes.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the Provincial Small Cause Courts Act, 1887, and, in the absence of any order of the Local Government to the contrary, to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

IX of 1887.

Continuance of jurisdiction of Cantonment Court of Small Causes in certain cases notwithstanding reduction of jurisdiction of Judge.

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

(*Chapter II.—Cantonments and Cantonment Authorities, Courts and Police.—Section 12. Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Section 13.*)

Cantonment Police.

Police.

12. (*1*) The police-force employed in a cantonment beyond the limits of a presidency-town shall, for the purposes of Act XXIV of 1859 (*for the better regulation of the police within the territories subject to the Presidency of Fort St. George*) or Act V of 1861 (*for the regulation of Police*) or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council, as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

(*2*) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V of 1861.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

Unauthorised sale of spirituous liquor or intoxicating drug.

13. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barters, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

14. If

Unauthorised possession of spirituous liquor.

14. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

(*a*) any person subject to military law otherwise than as an officer or soldier, or

(*b*) the wife or servant of any such person or of a soldier,

has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.

15. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(*2*) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(*3*) The

(*Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Section 16. Chapter IV.—Taxation and Cantonment Fund.—Section 17.*)

(*3*) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (*1*) or sub-section (*2*).

(*4*) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882, anything seized under sub-section (*1*) or sub-section (*2*) and not confiscated under sub-section (*3*) shall be restored to the person from whom it was taken. X of 1882.

Saving of article sold or supplied for medicinal purposes.

16. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

General power of taxation.

17. (*1*) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(*a*) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government, and

(*b*) abolish or modify any tax so imposed.

(*2*) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (*1*), the Local Government, with the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

18. (*1*) The

Extension of Act XX of 1856 to certain cantonments.

18. (*1*) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856 (*to make better provision for the appointment and maintenance of Police Chaukidárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(*2*) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(*3*) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (*1*), and may revoke or vary any order under sub-section (*2*).

Restriction of power of taxation in cantonments in which Act XX of 1856 is in force.

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed under section 17 of this Act in the cantonment.

Power to prohibit or exempt from taxation.

20. (*1*) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office or any class of persons, or any property or any class of property, from the

the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(*2*) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment. XI of 1881

Cantonment Fund.

Cantonment fund.

21. (*1*) There shall be formed for every cantonment which is not included in a municipality a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely :—

(*a*) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act, 1881; X of 1882. XLV of 1860. 44 & 45 Vict., c. 58.

(*b*) the proceeds of taxes imposed under section 17 or levied under Act XX of 1856 in the cantonment; and

(*c*) rents and profits accruing from property placed by

by the Government under the management of the cantonment authority.

(*2*) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

Custody of cantonment fund.

22. (*1*) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(*2*) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

Vesting and management of cantonment fund.

23. The cantonment fund shall be vested in Her Majesty, and, subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

Acquisition of immoveable property at cost of cantonment fund.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land-acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

of 1870.

CHAPTER V.

of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof;

(*20*) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons;

(*21*) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease;

(*22*) the segregation in, or the removal and exclusion from, a cantonment, or the destruction of animals suffering or supposed to be suffering from any infectious or contagious disease;

(*23*) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom;

XLV of 1860.
44 & 45 Vict. c. 58.
X of 1882.

(*24*) the prevention of cruelty to animals and the care of animals while grazing;

(*25*) the

(*25*) the prevention and extinction of fires;

(*26*) the registration of births and deaths;

(*27*) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder;

(*28*) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences;

(*29*) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;

(*30*) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from; and,

(*31*) generally, the carrying out of the purposes of this Act.

Supplemental provisions respecting rules.

27. (*1*) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner as the Governor General in Council prescribes.

(*2*) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.

(*3*) A copy

(*3*) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(*4*) In making any rule under clause (*12*) or any of the following clauses of the last foregoing section, the Governor General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

Extension of certain enactments and rules to places beyond cantonments.

28. The Local Government may, by notification in the official Gazette and subject to any conditions as to compensation or otherwise which it may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—

(*a*) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25, or

(*b*) any rule in force in the cantonment or any part thereof under clause (*12*) or any of the following clauses of section 26, as well as any direction there in force under sub-section (*4*) of section 27;

and the enactment, rule or direction specified in the notification, shall, so long as the notification remains uncancelled, apply to that area as if the area were included in the cantonment.

Inapplicability of section 555, Act X, 1882, to trials of offences against this Act.

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the X of 1882.

the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

Cantonments in presidency-towns.

30. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

Protection of cantonment authority, Magistrate and commanding officer.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate or commanding officer for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

The Act

Registration.

32. (*1*) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

IV of 1882.

(*2*) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

III of 1877.

Limitation of the operation of this Act.

33. The Governor General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

THE SCHEDULE.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
	Acts of the Governor General in Council.	
Act XVIII of 1853.	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854 .	Sentences of superintendents of bázárs.	The whole, so far as it has not been repealed.
Act XLV of 1860.	Indian Penal Code . .	The words " or before a Military Court of Request " in *Explanation 1* to section 193.
Act V of 1869 .	Indian Articles of War .	Part III, clause (*c*) : and for the last twenty-seven words of Part I, clause (*f*), the following shall be substituted, namely :— " and officers in charge of the police in cantonments are defined and controlled."
Act VII of 1870 .	Court-fees Act, 1870 .	Section 19, clause iv, and in Schedule II, article 1, clause (*a*), the words " or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859."
Act XV of 1874 .	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832 : so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827 : and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
Act XX of 1875 .	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
Act XVIII of 1876.	Oudh Laws Act, 1876 .	So much as relates to Bengal Regulation XX of 1810.
Act III of 1877 .	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word " Whenever " and ending with the word " thereof ".
Act XIV of 1879	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words " and the Governor General in Council may " down to and inclusive of the words " in which British troops are cantoned ".

THE SCHEDULE—*continued.*

Number and year.	Subject or title.	Extent of repeal.
1	2	3
	Acts of the Governor General in Council—continued.	
Act III of 1880 .	Cantonments Act, 1880 .	So much as has not been repealed.
Act XXII of 1881	Excise Act, 1881 . .	The proviso to section 53.
Act X of 1882 .	Code of Criminal Procedure, 1882.	Clause (*b*) of section 1.
Act XIV of 1882	Code of Civil Procedure .	Section 6, clause (*a*), the words "an officer or" in section 468, and the whole of section 469.
Act XX of 1886 .	Upper Burma Laws Act, 1886.	In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments".
	Regulation of the Bengal Code.	
Regulation XX of 1810.	Military bázárs . .	So much as has not been repealed.
	Regulation of the Bombay Code.	
Regulation XXII of 1827.	Military authority . .	So much as has not been repealed, except sections 40, 41, 42 and 43.
	Acts of the Governor of Fort St. George in Council.	
Act IV of 1865 .	Madras Cantonments .	The whole, so far as it has not been repealed.
Act I of 1866 .	Madras Cantonments .	So much as has not been repealed.
	Act of the Governor of Bombay in Council.	
Act III of 1867 .	Bombay Cantonment Act of 1867.	So much as has not been repealed.
	Act of the Lieutenant-Governor of Bengal in Council.	
Act VII of 1878 .	Bengal Excise Act, 1878 .	The proviso to section 81.
	Regulation under the Statute 33 Victoria, Chapter 3.	
III of 1877 .	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.

GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE.—NO. 184 L. D.—5-11-80.—1,400 - A. MGL.

ACT No. XIV OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 17th October, 1889.)

An Act to indemnify certain witnesses.

WHEREAS by an order, dated the sixteenth day of October, 1888, a Commission was appointed by the Governor of Bombay in Council under Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*) for the purpose of enquiring into certain imputations of misbehaviour by a public servant;

And whereas in the course of the proceedings before the said Commission, and of certain enquiries preliminary to or connected with the said proceedings and undertaken by direction of the said Governor in Council, and in the investigation and trial of certain criminal charges against one Hunmuntrao Raghavendra, statements were made and evidence given by public servants and other persons, by reason of which statements or evidence the said public servants and other persons became or might become liable to suits, prosecutions or penalties under the Statute 49 Geo. III, Chapter 126, or the Indian Penal Code, or otherwise;

XLV of 1860.

And whereas it is expedient to free the said public servants and other persons from all liability to civil or criminal proceedings in respect of any cause of action or charge arising out of any admission of an offence in any statements made or evidence given as aforesaid;

It

[*Price one anna and three pies.*]

It is hereby enacted as follows:—

Indemnity to witnesses.

1. No suit, prosecution or other proceeding shall be commenced or continued against any person in respect of any cause of action or charge arising out of any offence admitted by him in any statement made or evidence given before the said Commission, or in any enquiry undertaken by direction of the said Governor in Council preliminary to or in connection with the proceedings of the said Commission or in the course of the said investigation and trial.

Government of India Central Printing Office.—No. 185 L. D.—5-11-89.—4,400.—A. McL.

BENGAL SECRETARIAT LIBRARY

ACT No. XV OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 17th October, 1889.)

An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

Title, extent and application.

1. (*1*) This Act may be called the Indian Official Secrets Act, 1889; and

(*2*) It extends to the whole of British India, and applies—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and

(*b*) to all Native Indian subjects of Her Majesty without and beyond British India.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty:

(*2*) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated:

(*3*) "document"

[*Price one anna and nine pies.*]

(*3*) "document" includes part of a document:

(*4*) "model" includes design, pattern and specimen:

(*5*) "sketch" includes any photograph or other mode of representation of any place or thing: and

(*6*) "office under Her Majesty" includes any office or employment in or under any department of the Government.

Disclosure of information.

3. (*1*) (*a*) Where a person for the purpose of wrongfully obtaining information—

(i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or,

(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,

(iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or

(*b*) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or

(*c*) where

(*c*) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(*2*) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(*3*) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

Breach of official trust.

4. (*1*) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information

information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(*2*) A person guilty of a breach of official trust shall—

(*a*) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(*b*) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(*3*) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

Restriction on prosecution.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor General in Council.

Government of India Central Printing Office.—No. 186 L. D.—5-11-89.—4,400.—A. McL.

ACT No. XVI OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 29th October, 1889.*)

An Act to amend the Central Provinces Land-revenue Act, 1881, and the Central Provinces Local Self-government Act, 1883.

WHEREAS it is expedient to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows :— XVIII of 1881.

1. (*1*) This Act may be called the Central Provinces Land-revenue Act, 1889 ; and Title and commencement.

(*2*) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context, the word "section" means a section of the Central Provinces Land-revenue Act, 1881. Definition.

3. In section 1 the words and figures "except those specified in Part VI of the first schedule of the Scheduled Districts Act, 1874," are hereby repealed. 1874. Amendment of section 1.

4. In section 4, clause (3), after the words "proprietors as such of the village," the words "or to their transferees or assignees as such or to the patél," shall be inserted. Amendment of section 4, clause (3).

5. For section 4, clause (6), the following shall be substituted, namely :— New clause substituted for section 4, clause (6).

"(6) "Sír-land" means— "Sír-land :"

(*a*) land which was recorded as 'sír' in the papers of the last preceding settlement of the local area in which the land is situate ;

(*b*) land which was not so recorded, but which at the commencement of the Central Provinces Land-revenue

[*Price six annas.*]

Land-revenue Act, 1889, was occupied by, and had been cultivated by, the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) waste-land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years;

and includes also in the Sambalpur district land which was recorded as 'bhogra' in the papers of the last preceding settlement of the local area in which the land is situate.

"*Explanation I.*—Land (other than bhogra) which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor and which had, after the date of such settlement, or the expiration of such period of twelve years, or six years (as the case may be), been so unoccupied for a period of six consecutive years is not sír-land. Land is occupied by the proprietor when it is leased out by him with an express reservation of his sír-rights.

"*Explanation II.*—In this definition the word 'proprietor' includes an assignee of proprietary rights, and land is said to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

"*Explanation III.*—When by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not sír-land and which is taken in exchange for sír-land becomes sír-land, and the sír-land given in exchange for that land ceases to be sír-land:".

New clause inserted after section 4, clause (6).

6. After section 4, clause (6), the following shall be inserted, namely:—

"Survey-number:"

"(6*a*) 'Survey-number' means a local area held by, or intended to be settled with, a raiyat under a separate

rate assessment of land-revenue in a village or estate which is the property of the Government: ".

Amendment of section 4, clause (7).

7. To section 4, clause (7), the words "but does not include a survey-number" shall be added.

New clause inserted after section 4, clause (8). "Proprietor:"

8. After section 4, clause (8), the following shall be inserted, namely:—

"(8*a*) 'Proprietor,' except in section 4, clause (6), and in sections 61, 62, 63 and 69, includes a gaontia of a Government village in the Sambalpur district:".

New clause substituted for section 4, clause (10). "Málik-makbúza:"

9. For section 4, clause (10), the following shall be substituted, namely:—

"(10) 'Málik-makbúza' means any person owning one or more plots of land separately assessed with revenue in a mahál, and who is not a malguzár, inferior proprietor or member of the proprietary body of the mahál.

New clauses inserted after section 4, clause (13). "Patél:"

10. After section 4, clause (13), the following shall be inserted, namely:—

"(13*a*) 'Patél' means a person appointed in manner prescribed under this Act to represent a body of Government raiyats in their dealings with the Government:

"Pattí:"

"(13*b*) 'Pattí' means the lands allotted to any sharer or body of co-sharers in a mahál by an imperfect partition under this Act:".

Amendment of section 4, clause (14).

11. For the *Explanation* to section 4, clause (14), the following shall be substituted, namely:—

"*Explanation I.*—An inferior proprietor is not, as such, a tenant.

"*Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, is a tenant of the farmer or gaontia for the time being.

"*Explanation III.*—A person who is not an absolute occupancy-tenant or an occupancy-tenant and who

who holds land from a málik-makbúza or from the holder of a survey-number is a sub-tenant of that land."

New section substituted for section 6. Revenue-officers.

12. For section 6 the following shall be substituted, namely:—

"6. (*1*) Besides the Chief Commissioner, there shall be the following classes of Revenue-officers, namely:—

Commissioners;

Deputy Commissioners;

Assistant Commissioners;

Tahsildárs;

Naib-tahsildárs.

"(*2*) All Revenue-officers are subordinate to the Chief Commissioner; all Revenue-officers in a division are subordinate to the Commissioner of the division; and all Revenue-officers in a district are subordinate to the Deputy Commissioner of the district.

"(*3*) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class and, when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct."

New section inserted after section 18. Power for Revenue and Settlement Officers to require attendance of persons and production of documents.

13. After section 18 the following shall be inserted, namely:—

"18A. (*1*) Any Revenue-officer or class of Revenue-officers and any officer appointed to make a settlement may, if specially empowered in this behalf by the Chief Commissioner, order all persons whose presence may be, in the opinion of the officer making the order, necessary for any of the purposes of this Act to attend either in person or by authorized agent at any specified time and place, and may also direct them to produce any written document in their possession, and all such persons shall be legally bound to obey the order.

"(*2*) The power to require the attendance of parties

parties in person shall, so far as may be, be subject to
XIV of 1882. the provisions of section 176 of the Code of Civil Procedure."

Amendment of section 45.

14. In section 45, after the words "comprised in such area," the words "or who are in possession of the whole or any part of the land as gaontias or as thekadárs of Government land, or as raiyats who have accepted the assessment of a survey-number," shall be inserted.

Amendment of section 46.

15. To section 46 the following shall be added, namely:—

"Provided that the Chief Commissioner may declare that any mahál which consists wholly or principally of forest is a forest-mahál, and may direct that the assessment shall be a specified share of the gross or net annual value of the produce of the mahál to be determined from time to time for each year, or part of a year, or that the assessment shall be in the form of rates chargeable on the produce of the mahál in each year or part of a year."

New section inserted after section 56.

16. After section 56 the following shall be inserted, namely:—

When assessment is in form of rates, Deputy Commissioner to publish record of amount payable.

"56A. (*1*) If the assessment accepted is a specified share of the produce of a forest-mahál to be determined from time to time or in the form of rates chargeable on the produce of a forest-mahál, the Deputy Commissioner shall, from time to time, as the conditions of the assessment may require, notify to the malguzár, on or before such date, or at such intervals, as the Chief Commissioner may prescribe, the amount payable in respect of the forest-mahál.

"(*2*) The Deputy Commissioner and his subordinates may at any time enter on the forest-mahál and do all acts necessary for ascertaining the amount payable in respect thereof."

New section inserted after section 65.

17. After section 65 the following shall be inserted, namely:—

Power to inquire into

"65A. The Settlement-officer may inquire into the

the claims of the kadárs, gaontias or farmers.

the claim of any person holding from a proprietor a village or part of a village as thekadár, gaontia or farmer, and may, with the previous sanction of the Chief Commissioner, provide in the terms of settlement for the protection of such thekadár, gaontia or farmer against arbitrary enhancement or ejectment:

"Provided that the protection of a thekadár, gaontia or farmer shall not be provided for under this section unless he or those from whom he has inherited was or were in possession of the village at the last settlement of the local area in which the village is situate, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost."

New sections inserted after section 67.

18. After section 67 the following shall be inserted, namely:—

"*Procedure in Raiyatwári Settlements.*

Assessment of raiyatwári villages.

"67A. (*1*) The Chief Commissioner may make rules for the assessment of land held by raiyats direct from the Government.

"(*2*) Such rules may provide for the subdivision of occupied and unoccupied land into survey-numbers, on each of which a separate assessment shall be made:

"Provided that no such survey-number shall include land occupied in separate interests by more raiyats than one at the time of its formation.

"(*3*) Where the lands of a village have been divided into survey-numbers on each of which a separate assessment has been made, the village may be declared by the Chief Commissioner to be a regularly settled raiyatwári village.

"(*4*) The assessment made on a survey-number may be either fixed or progressive or in the form of rates chargeable according to the results of each year or harvest.

"67B. (*1*) The

Assessment to whom to be offered.

"67B. (*1*) The assessment of each survey-number in a regularly settled raiyatwári village shall in the first place be offered to the raiyat (if any) holding the survey-number.

"(*2*) If such raiyat refuses to accept the assessment, he may be ejected as if for non-payment of revenue, and the assessment may be offered—

(*a*) to any co-partner of the ejected raiyat, and, if he also refuses,

(*b*) to any other person.

Assessment of unoccupied survey-numbers.

"67C. A survey-number formed from unoccupied land in a regularly settled raiyatwári village may be allotted by the Settlement-officer at the time of settlement or by the Deputy Commissioner during the currency of the term of settlement to any person who accepts the assessment made upon it.

Responsibility of raiyats for assessment.

"67D. (*1*) A raiyat who has accepted the assessment of a survey-number in a regularly settled raiyatwári village, and his representatives and assigns, shall be responsible for the payment of the land-revenue assessed on such survey-number during the term of settlement, unless he or they has or have relinquished the survey-number by presenting at the tahsil office a written notice of relinquishment.

"(*2*) Such notice of relinquishment shall take effect from the first day of April next following the date of the presentation thereof.

Right of raiyat inheritable but not transferable.

"67E. (*1*) The right of a Government raiyat in a survey-number held by him shall devolve as if it were land, but is not transferable except to a person who, if he survived the raiyat, would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, by a lease to a subtenant cultivating under the raiyat.

"(*2*) The right of a raiyat in a survey-number held by him shall not be sold in execution of a decree.

"(*3*) A raiyat is not entitled to claim partition of a survey-number,

survey-number, but the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, partition a survey-number and apportion the assessment between the holders thereof.

"(*4*) Nothing in this section shall affect the rights of raiyats on whom proprietary rights in survey-numbers held by them have been conferred by special orders.

Power to make rules for survey-numbers.

"67F. The Chief Commissioner may make rules—

(*a*) prescribing the procedure under which unoccupied survey-numbers may be allotted to raiyats during the currency of the term of a settlement;

(*b*) providing for the appointment, in the case of survey-numbers held by two or more raiyats in co-partnership, of one of such raiyats to be primarily responsible for the payment of the land-revenue assessed on such survey-numbers;

(*c*) providing, in cases in which the assessment is in the form of rates chargeable according to the results of each year or harvest, for the manner and time in and at which the amount chargeable is to be notified to the raiyat.

Provisions of sections 55 and 56 applicable to raiyatwári settlements.

"67G. The provisions of sections 55 and 56 shall, so far as they can be made applicable, apply to raiyatwári settlements made under this Act.

Land-revenue now payable by raiyats to be deemed to be fixed under this Act.

"67H. The land-revenue payable at the commencement of the Central Provinces Land-revenue Act, 1889, by raiyats holding survey-numbers in villages declared to be regularly settled raiyatwári villages shall be deemed to have been assessed under the provisions of this Act.

Raiyats holding Government land not included in raiyatwári villages.

"67I. Raiyats who hold Government land not included in a regularly settled raiyatwári village and who are not tenants within the meaning of this Act shall be liable for the payment of such land-revenue as

as may be assessed in accordance with rules made under this Act on the land held by them :

"Provided that such a raiyat shall not be compelled to pay revenue for land which he has vacated before the first day of April next before the commencement of the agricultural year on account of which the claim for such revenue arises."

New section substituted for section 69.

19. For section 69 the following shall be substituted, namely :—

Determination and record of sír-land.

"69. (*1*) The Settlement-officer shall ascertain and determine the extent of all the land held as sír-land as defined in section 4, clause (6), in each mahál, and shall record the same as sír-land, and shall also record as sír-land all land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been so cultivated for a period of not less than twelve consecutive years :

"Provided that land so cultivated shall not be recorded as sír-land, if it was recorded in the papers of the last preceding settlement of the mahál in which it is situate as tenant's land, or as land held by a tenant or in terms equivalent thereto, and if by recording it as sír-land the total area of sír-land in the mahál will amount to more than a quarter of the cultivated area of the mahál.

"(*2*) When a part of the land so cultivated has under this section to be omitted from the record of sír-land, the proprietor shall have the right to choose the particular fields which are to be omitted."

Amendment of section 91.

20. In section 91, after the words "under a settlement or sub-settlement" the words "or otherwise under an assessment made in accordance with this Act", and after the words "with whom such settlement or sub-settlement" the words "or such assessment", shall be inserted.

New clause inserted after section 94, clause (*g*).

21. After clause (*g*) of section 94 the following shall be inserted, namely :—

"(*h*) in the case of a raiyat who has accepted the assessment

assessment of a survey-number, by ejecting him from his holding."

Insertion of new section after section 124.

22. After section 124 the following shall be inserted, namely:—

Powers to control management of forests.

"124A. (*1*) When under any record-of-rights or sanad or any agreement with the Government the proprietor or the superior or inferior proprietor of any forest-land included within, or forming, a mahál is bound to manage such forest-land in accordance with rules or instructions prescribed by any Government officer, the Chief Commissioner may make rules regarding the control and management of such forest-land.

"(*2*) If the proprietor or the superior or inferior proprietor, as the case may be, fails to observe the rules so made, the Deputy Commissioner may issue a notice calling on him to show cause, within a reasonable time to be specified in the notice, why he should not be excluded from the possession of the forest-land.

"(*3*) If no sufficient cause is shown, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, exclude such proprietor from the possession of the forest-land and assume the direct management thereof for a term to be fixed by the Chief Commissioner.

"(*4*) The costs of management shall be borne by the proprietor, or by the superior and inferior proprietors in such proportions as the Chief Commissioner may direct with reference to the amount of their respective interests in the forest or mahál, and shall be realizable as land-revenue.

"(*5*) The profits of such forest-land while under direct management shall be paid to the proprietor, or to the superior and inferior proprietors in the proportions in which the costs of management are borne by them.

"(*6*) No leases, liens, incumbrances or contracts created or made by the proprietor or by any person through

through or under whom he claims, of, upon or with respect to the forest-land held under direct management, shall be binding upon the Deputy Commissioner during such management.

"(*7*) The Deputy Commissioner may confiscate any timber or other forest-produce cut or removed in contravention of the rules made under sub-section (*1*).

"(*8*) On the expiration of the period fixed for the direct management the forest-land shall be restored to the proprietor, or superior or inferior proprietor, as the case may be."

Amendment of section 125, clause (*a*).

23. In section 125, clause (*a*), for the words "subsequently to the preparation of the record-of-rights" the words "from time to time" shall be substituted.

New clause added to section 132.

24. To section 132 the following clause shall be added, namely:—

"(*i*) inquiring into the claims of thekadárs, gaontias or farmers and protecting them."

Amendment of section 135.

25. In section 135, after the words "mortgagees or farmers" the words "or, in the case of regularly settled raiyatwári villages, of the raiyats" shall be inserted.

Repeal of section 136 and substitution therefor of new provisions respecting partition.

26. ~~Section 136 is hereby repealed, and~~ after section 135 the following shall be inserted, namely:—

"CHAPTER XA.

"PARTITION.

"*Perfect and Imperfect Partition.*

Perfect and imperfect partition.

"136. (*1*) Partition is either perfect or imperfect.

"(*2*) Perfect partition means the division of a mahál into two or more maháls.

"(*3*) Imperfect partition means the division of a mahál into two or more pattís jointly responsible for the revenue assessed on the whole mahál.

Persons entitled to imperfect partition.

"136A. Any recorded co-sharer of a mahál and any person in whose favour a decree has been passed awarding

awarding to him a proprietary interest in a mahál, whether such interest consists of a fractional share in the whole mahál or a part of the mahál or of specific lands, is entitled to claim at any time imperfect partition of his share.

Persons entitled to perfect partition.

"136B. Any recorded co-sharer in a mahál, not being a mahál

(*a*) in the Sambalpur district, or

(*b*) held by superior and inferior proprietors and which the Chief Commissioner by rule declares to be incapable of perfect partition,

whose share, saving such part of it as may be impartible, has been completely separated from the rest of the mahál and is held by him in severalty, is entitled to claim perfect partition of his share at the time of settlement of such mahál.

Jurisdiction of Civil Court barred as to partition.

"136C. No Civil Court shall entertain any suit or application for the imperfect or perfect partition of a mahál.

"*Imperfect Partition.*

Applications for imperfect partition to be made to Deputy Commissioner.

"136D. (*1*) Applications for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahál is situate.

"(*2*) If the mahál is situate in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

Procedure on receipt of application.

"136E. (*1*) The Deputy Commissioner on receiving an application for imperfect partition shall, if the application be in order, and not open to objection on the face of it, publish a notification of the same at his office and at some conspicuous place on the mahál to which the application relates, and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection either in person

son or by a duly authorized agent on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

"(*2*) Where from any cause notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

Objection to partition.

"136F. If on or before the day specified any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner on a consideration of such objection is of opinion that there is good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Objection raising question of title.

"136G. (*1*) If the objection raises any question of title or of proprietary right which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court or may proceed to inquire into the merits of the objection.

"(*2*) In the latter case the Deputy Commissioner, after making the necessary inquiry and taking such evidence as may be adduced, shall record a judgment declaring the nature and extent of the interests of the party or parties applying for the partition, and of any other party or parties who may be affected thereby.

"(*3*) The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may with the consent of the parties refer any question arising in such case to arbitration, and the provisions of Chapter XXXVII of the same Code relative to arbitration shall apply to such references.

XIV of 1882.

Effect of Deputy Commissioner's orders in such cases

"136H. (*1*) All decrees and orders passed by the Deputy Commissioner under the last foregoing section deciding the rights of parties shall be held to be decrees and

and appeals therefrom.

and orders of a Court of Civil Judicature, and shall be open to appeal as if passed by the Court of the Deputy Commissioner acting as a Court of Civil Judicature of first instance under the Central Provinces Civil Courts Act, 1885. XVI of 1885.

"(*2*) Upon such appeal being made the Court of appeal may issue a precept to the Deputy Commissioner directing him to stay the partition pending the decision of the appeal.

Second appeal in such cases.

"136I. From any decree or order passed under the last foregoing section by a Commissioner sitting as a Court of appeal a second appeal shall, where a second appeal is by law allowed, lie to the Court of the Judicial Commissioner under the law for the time being in force relating to second appeals to that Court.

Option to parties to make partition themselves or appoint arbitrators.

"136J. When it has been decided to make a partition under this Chapter the Deputy Commissioner may give the parties the option of making the partition themselves or of appointing arbitrators for the purpose, or he shall make the partition himself.

Proceeding to be recorded by the Deputy Commissioner before making partition.

"136K. Before commencing to make the partition the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the land held in common, and laying down the principles to be followed in making the partition, with particulars of the method on which such principles are to be applied.

Each pattí to be made as compact as possible.

"136L. (*1*) The pattí of each sharer shall be made as compact as possible:

"Provided that, so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

"(*2*) No partition shall be disallowed solely on the ground of incompactness.

Rule when house of one sharer is included in the pattí of another.

"136M. (*1*) If in making the partition it be necessary to include in any pattí the land occupied by a dwelling-house or other building in the possession of another

another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose pattí it may fall.

"(*2*) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

Sír-land belonging to one sharer not to be included without his consent in the pattí of another sharer.

"136N. (*1*) No sír-land belonging to any co-sharer shall be included in the pattí assigned on partition to another co-sharer unless with the consent of the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out.

"(*2*) If such land be so included and after partition such co-sharer continue to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land and his rent shall be fixed by order of the Deputy Commissioner.

Rule as to tanks, wells and other irrigation-works.

"136O. (*1*) Tanks, wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made.

"(*2*) Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the pattís into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each pattí may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided.

Rule regarding places of worship and burial-grounds.

"136P. (*1*) Places of worship and burial-grounds held in common previous to the partition of a mahál shall continue to be so held unless the parties otherwise agree among themselves.

"(*2*) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

Deputy Commissioner may dismiss

"136Q. (*1*) If the costs to be paid by the applicant for

case for non-payment of costs or may quash proceedings.

for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed.

"(*2*) If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed, recording his reasons for so doing.

Commissioner's sanction to partition necessary.

"136R. On completion of the partition the Deputy Commissioner shall submit the proceedings to the Commissioner, who may either uphold the partition proposed or modify it or quash the proceedings; and a partition shall not take effect until it has been sanctioned by him.

When partition sanctioned, notification to be published.

"136S. (*1*) On a partition being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at some conspicuous place in the village or villages of the mahál of which the partitioned pattís formed part.

"(*2*) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

"*Perfect Partition.*

Applications for perfect partition to be made to Settlement-officer.

"136T. (*1*) Applications for perfect partition shall be made, in such form as may be prescribed by the Chief Commissioner, to the Settlement-officer charged with the settlement of the area in which the mahál is situate.

"(*2*) Such applications must show that the share which it is desired to have formed into a separate mahál is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

Settlement-officer may declare shares in mahals to be separate mah

"136U. (*1*) Subject to any rules which may be made by the Chief Commissioner, the Settlement officer, if he is satisfied of the truth of the matters stated in the application, may, if he thinks fit, declare the share

share to be a separate mahál and may assess it separately to land-revenue:

"Provided that no share shall be declared to be a separate mahál till the proprietors of other shares in the mahál have been given an opportunity of objecting to its perfect partition.

"(*2*) Except with the sanction of the Commissioner an incompact estate shall not be declared to be a separate mahál.

"*Supplemental Provisions.*

"136V. The Chief Commissioner may make rules regarding— Power to make rules regarding partition-proceedings.

(*a*) the form in which applications for partition shall be made;

(*b*) the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators;

(*c*) the costs of partition and the mode in which costs are to be apportioned; and,

(*d*) generally, for carrying out the provisions of this Chapter.

"136W. Act XIX of 1863 (*an Act to consolidate and amend the Law relating to the partition of Estates paying revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal*) is hereby repealed with effect from the commencement of the Central Provinces Land-revenue Act, 1889." Repeal of Act XIX of 1863.

27. (*1*) In the first paragraph of section 137, for the words "and mukaddams" the words "mukaddams and patéls" shall be substituted. Amendment of section 137.

(*2*) For the last paragraph of the same section the following shall be substituted, namely:—

"The lambardár of the village shall ordinarily also be the mukaddam. When a lambardár who does not reside in the village is appointed mukaddam thereof,

thereof, he shall, subject to the approval of the Deputy Commissioner, appoint an agent to perform the duties of a mukaddam. If there are resident co-sharers in the village, the non-resident lambardár shall appoint one of them to be his agent unless the Deputy Commissioner for special reasons allows him to appoint some other person. If a mukaddam fails within a reasonable time to appoint an agent with the approval of the Deputy Commissioner, the Deputy Commissioner shall himself appoint an agent and shall fix the amount of his remuneration, which shall be paid to him by the mukaddam.

"An agent appointed under this section shall be deemed to have the powers conferred on, and to be responsible for the performance of the duties prescribed with regard to, mukaddams by this Act and the rules made hereunder.

"Any fine imposed on such agent for a breach of the provisions of this Act or the rules made hereunder may be recovered from the mukaddam whose agent he is by the Deputy Commissioner.

"In a raiyatwári village the patél shall ordinarily be the mukaddam."

New section inserted after section 143.

28. After section 143 the following shall be inserted, namely:—

Duties of patél.

"143A. It shall be the duty of every patél, in addition to his duties as mukaddam,—

(*a*) to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or holdings of his village;

(*b*) in respect of his village to report the abandonment of survey-numbers or holdings, the encroachment of raiyats on waste-land not included in their survey-numbers or holdings, and the non-payment of revenue or any facts which indicate that default will be made in the payment thereof;

(*c*) to assist the patwári and village-watchman of his

his village in the recovery of dues to which they are entitled;

(*d*) to prevent the unauthorized cutting of wood in Government forests included in or adjoining his village, and to report any such unauthorized cutting in such forests."

Amendment of section 144.

29. (*1*) In section 144, after the words "may make rules" the following shall be inserted, namely:—

"(*a*) providing for the appointment of patwáris in tracts where they have not been already appointed;".

(*2*) In the same section clauses (*a*), (*b*) and (*c*) shall be read as clauses (*b*), (*c*) and (*d*), respectively, ~~and the last~~ paragraph beginning with the words "Provided that" and ending with the words "liable to assessment" is hereby ~~repeal~~ed.

Repeal of section 145.

30. Section 145 is hereby repealed.

Amendment of section 146.

31. The portion of section 146, clause (*b*), beginning with the words "and may in such rules" and ending with the words "such duties" is hereby repealed.

New section inserted after section 146.

32. After section 146 the following shall be inserted, namely:—

Power to fix amount to be paid by proprietors, tenants and raiyats for patwáris.

"146A. (*1*) The Chief Commissioner shall fix the nature and amount of the contributions to be made by proprietors and tenants in every mahál or in any specified local area and by raiyats in every raiyatwári village towards the remuneration of patwáris and the defraying of any charges incurred on account of the proper supervision, maintenance and correction of the patwáris' records, and may direct that any or all of such contributions be paid into the Government treasury through the lambardár of the mahál, or the patél:

"Provided that, except with the previous sanction of the Governor General in Council, no proprietor shall

shall be compelled to contribute under this section a sum exceeding six per cent. on the revenue for the time being assessed on his land, or which, when his land is wholly or partially free from revenue, would in the judgment of the Deputy Commissioner be assessable on his land if it were liable to a full assessment.

"(*2*) The contributions fixed under sub-section (*1*) may be recovered in the same manner as an arrear of revenue payable directly to the Government, and the provisions of section 116 shall be applicable in the case of a lambardár or patél through whom the contributions are payable."

New section inserted after section 147.

33. After section 147 the following shall be inserted, namely:—

Power to make rules

"147A. The Chief Commissioner may make rules regarding village-watchmen and may in the rules—

village-watchmen.

(*a*) provide for and regulate their appointment, suspension or removal, prescribing the number of village-watchmen who may hold office at one time in a single village and providing for the appointment of a single village-watchman for two or more villages where such villages would be unable to support separate village-watchmen;

(*b*) determine the character and amount of the remuneration which village-watchmen shall be entitled to demand from the members of the village-community;

(*c*) define the duties and the mode of supervision of village-watchmen."

Amendment of section 148.

34. In section 148, for the words "and patwáris" the words "patwáris and village-watchmen" shall be substituted.

Amendment of section 149.

35. In section 149, for the words "and patwáris" the words "and village-watchmen" shall be substituted.

Amendment of section 151.

36. In section 151 the words "and the right to extract

extract sap from all palmyra and cocoanut trees" are hereby repealed.

Amendment of section 152, clause (13).

37. For clause (13) of section 152 the following clauses shall be substituted, namely :—

"(13) questions connected with, or arising out of, the exclusion of a proprietor from forest-land, and the direct management of such land under section 124A ;

"(13*a*) the distribution of the land or allotment of the revenue of a mahál by partition ; or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahál or the pattí of another co-sharer ; ".

Amendment of section 152, clause (14).

38. In clause (14) of section 152, for the words "or mukaddam" the words "mukaddam, patél or village-watchman" shall be substituted.

New sections inserted after section 161.

39. After section 161 the following shall be inserted, namely :—

Penalty for failure to perform duty or abuse of authority by mukaddam or agent.

"161A. Any mukaddam or agent of a mukaddam who without reasonable excuse fails to perform any duty imposed on him by this Act or the rules made thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing failure, to a fine of ten rupees for each day during which the failure continues.

Penalty for neglecting or disobeying orders of mukaddam or agent.

"161B. Any person who neglects or disobeys a reasonable order made by a mukaddam or agent of a mukaddam in pursuance of the duty imposed upon him by section 141, clause (*e*), shall be punishable with fine which may extend to twenty rupees, and, if the neglect or disobedience is continued, shall also be liable to a fine of five rupees for each day during which the neglect or disobedience is continued."

Power to assign titles to officers

40. Notwithstanding anything contained in section 29, the Chief Commissioner shall be deemed to have,

appointed to make settlements.

have, and to have had, authority to assign to the Settlement-officer the title "Assistant Settlement-officer" and to the Chief Settlement-officer the title "Settlement-officer".

And whereas it is also expedient to amend the Central Provinces Local Self-government Act, 1883; It is hereby further enacted as follows:— I of 1883.

Amendment of section 41, Act I, 1883.

41. In section 41, sub-section (*1*), of the said Act, for the words "has been made in any settlement-record previous to the passing of this Act" the words "is made in any settlement-record" shall be substituted.

Government of India Central Printing Office.—No. 237 L. D.—21-11-89.—4,400.—A. McL.

ACT No. XVII OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 29th October, 1889.*)

An Act to amend the Central Provinces Tenancy Act, 1883.

WHEREAS it is expedient to amend the Central Provinces Tenancy Act, 1883; It is hereby enacted as follows:— IX of 1883.

1. (*1*) This Act may be called the Central Provinces Tenancy Act, 1889; and Title and commencement.

(*2*) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context, the word "section" means a section of the Central Provinces Tenancy Act, 1883. Definition.

3. In section 1, sub-section (*2*), the words and figures "except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI," are hereby repealed. Amendment of section 1, sub-section (*2*). of 1874.

4. For the Explanation to section 3, clause (2), the following shall be substituted, namely:— Amendment of section 3, clause (2).

"*Explanation I.*—An inferior proprietor is not, as such, a tenant.

"*Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, is a tenant of the farmer or gaontia for the time being."

5. For

[*Price two annas and three pies.*]

Amendment of section 3, clause (11).

5. For section 3, clause (11), the following shall be substituted, namely:—

"(11) 'sír-land' means—

(*a*) land which was recorded as 'sír' in the papers of the last preceding settlement of the local area in which the land is situate;

(*b*) land which was not so recorded, but which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by, and had been cultivated by, the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) waste-land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years;

and, except in section forty-two, includes also in the Sambalpur district land which was recorded as 'bhogra' in the papers of the last preceding settlement of the local area in which the land is situate.

"*Explanation I.*—Land (other than bhogra) which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor and which had, after the date of such settlement, or the expiration of such period of twelve years, or six years (as the case may be), been so unoccupied for a period of six consecutive years is not sír-land. Land is occupied by the proprietor when it is leased out by him with an express reservation of his sír-rights.

"*Explanation II.*—In this definition the word 'proprietor' includes the assignee of proprietory rights, and land is said to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

"*Explanation III.*—When by any local custom land is liable to exchange or re-distribution among the cultivators thereof, land which is not sír-land and which is taken in exchange for sír-land becomes sír-land, and the sír-land given in exchange for that land ceases to be sír-land:".

6. For

6. For section 4 the following shall be substituted, namely:— New section substituted for section 4.

"4. There shall be five classes of tenants, namely:— Classes of tenants.

(1) Absolute occupancy-tenants;

(2) Occupancy-tenants;

(3) Village-service tenants;

(4) Sub-tenants;

(5) Ordinary tenants."

7. To section 33 the following sub-section shall be added, namely:— Addition to section 33.

"(*4*) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (*2*) for the rent of his holding."

8. After section 35 the following shall be inserted, namely:— New section inserted after section 35.

"35A. Nothing in this Act regarding the rights of an absolute occupancy-tenant, an occupancy-tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest-land or waste-land which has been declared to be a reserved forest under the Indian Forest Act, 1878." Provisions regarding tenant-right not applicable to tenant of land in reserved forest.

[II of 1878.

9. In section 38, sub-section (*5*), after the words "is sold" the words "or is foreclosed" shall be inserted; and in sub-section (*7*) of the same section, for the words "shall be void" the words "shall be void as against the landlord" shall be substituted. Amendment of section 38.

10. For the portion of section 43, sub-section (*2*), beginning with the words "shall be void" and ending with the words "with his landlord's consent" the following shall be substituted, namely:— Amendment of section 43.

"shall be void as against his landlord, unless—

(*a*) it is entered into with the landlord's consent,".

11. After

New sections inserted after section 50.

11. After section 50 the following shall be inserted, namely:—

"CHAPTER IVA.

"OF VILLAGE-SERVICE TENANTS.

Definition of village-service tenant.

"50A. A tenant of a holding who has been recorded at the last preceding settlement of the area in which the holding is comprised as holding his land rent-free or on favorable terms on condition of rendering village-service is a village-service tenant.

Devolution and transfer of village-service tenant's right.

"50B. (*1*) When a village-service tenant dies, his right in his village-service holding shall pass to his successor in office.

"(*2*) A transaction by which a village-service tenant attempts to effect a transfer of property in respect of his village-service holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease from year to year shall be void, and the village-service tenant shall be liable to be ejected for such attempt.

"(*3*) The right of a village-service tenant shall not be sold in execution of a decree.

Obligation of village-service tenant to provide substitute.

"50C. If a village-service tenant is unable to render the service which he is bound to render, he shall provide a competent person to render it for him.

Grounds on which a village-service tenant may be ejected.

"50D. A village-service tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely:—

(*a*) that the tenant has attempted to effect a transfer of his holding in contravention of section fifty B, sub-section (*2*);

(*b*) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly, or, being unable to render it himself, has failed to provide a competent person to render it as required by section fifty C;

(*c*) that

(*c*) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which by local custom or the provisions of the village wajib-ul-arz renders him liable to be dismissed from office."

New section substituted for section 51.

12. For section 51 the following shall be substituted, namely:—

Definition of sub-tenant.

"51. (*1*) A tenant who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from another tenant, or from a málik-makbúza, or from the holder of a survey-number, is a sub-tenant of that land.

"(*2*) In sub-section (*1*) the expressions 'málik-makbúza' and 'survey-number' have the meanings respectively assigned to them in section 4, clauses (6*a*) and (10), of the Central Provinces Land-revenue Act, 1881, as amended by the Central Provinces Land-revenue Act, 1889."

XVIII of 1881.

New section substituted for section 53.

13. For section 53 the following shall be substituted, namely:—

Definition of ordinary tenant.

"53. (*1*) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service tenant or a sub-tenant, is an ordinary tenant.

"(*2*) In any local area in which the Local Government declares by notification in the official Gazette that this sub-section is in force, where a person cultivates land not being sír-land under an agreement made with the proprietor of the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and, notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord."

Amendment of section 54.

14. In section 54, for the words "sections fourteen and

and fifteen" the words "sections thirteen, fourteen, fifteen and fifty-four A" shall be substituted.

New section inserted after section 54.

15. After section 54 the following shall be inserted, namely:—

Landlord's right to recover rents determined at settlement as payable by ordinary tenants.

"54A. (*1*) A Settlement-officer may for the purposes of the land-revenue assessment determine the rents payable by the ordinary tenants of a máhal, and, when he has based the assessment on those rents, the landlord shall be entitled to recover the same on and from the date on which the assessment takes effect.

"(*2*) The rents determined under sub-section (*1*) shall be recorded in the proceedings of the Settlement-officer, and a copy of the record shall be granted free of expense to the landlord.

"(*3*) When under this section the rent of a tenant has been enhanced by the Settlement-officer, it shall not be enhanced under this Act by the landlord for a period of seven years from the date of the order of the Settlement-officer making the enhancement."

Amendment of section 61.

16. In section 61, sub-section (*2*), for the words "shall be void, unless it is entered into with his landlord's consent" the words "shall be void as against his landlord, unless it is entered into with the landlord's consent" shall be substituted.

New clause inserted after section 63, clause (*f*).

17. After section 63, clause (*f*), the following shall be inserted, namely:—

"(*ff*) applications for an order to eject a village-service tenant (section fifty D);".

Application of section 7, Act I of 1887.

18. The provisions of section 7 of the General Clauses Act, 1887, shall apply to the Central Provinces Tenancy Act, 1883, as amended by this Act. I of 1887. IX of 1883.

Government of India Central Printing Office.—No. 238 L. D.—20-11-89.—4,400.—A. M. L.

THE CENTRAL PROVINCES MUNICIPAL ACT, 1889.

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[*Price thirteen annas.*]

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BENGAL SECRETARIAT LIBRARY

ACT No. XVIII OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th December, 1889.)

An Act to make better provision for the Organization and Administration of Municipalities in the Central Provinces.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Central Provinces Municipal Act, 1889.

(*2*) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(*3*) It shall come into force on the first day of January, 1890.

Repeal.

XI of 1873.

2. (*1*) The Central Provinces Municipal Act, 1873, is hereby repealed:

(*2*) But all municipalities constituted, committees established, limits defined, appointments, rules, orders and bye-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into and suits instituted under the said Act, or under any enactment thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, established,

established, defined, made, issued, imposed, entered into and instituted under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "municipality" means a local area declared by or under this Act to be a municipality:

(*2*) "committee" means a municipal committee established by or under this Act:

(*3*) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway:

(*4*) "owner", used with reference to any building or land, includes the person who is receiving the rent of the building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant:

(*5*) "prescribed" means prescribed by rules made under this Act by the Local Government.

Notification of intention to constitute a municipality.

4. (*1*) The Local Government may, by notification published in the official Gazette and in the prescribed manner within the local area affected, declare its intention to constitute as a municipality under this Act any town or any group of towns in the immediate neighbourhood of one another.

(*2*) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the previous sanction of the Governor General in Council, so include any part of a military cantonment.

Consideration of objections and constitution of the municipality.

5. (*1*) Any inhabitant of a local area in respect of which a notification has been published under the last foregoing section may, if he objects to the constitution of the proposed municipality, submit his objection

objection in writing to the Local Government within three months from the date of the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(*2*) When three months from such date have expired, and the Local Government has considered the objections, if any, which have been submitted under sub-section (*1*), the Local Government may, by a notification in the official Gazette, declare the local area to be a municipality.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

Number and appointment of members of committee.

6. (*1*) There shall be established for each municipality a committee having authority over that municipality and consisting of such number of members, not less than five, as may be prescribed.

(*2*) Such members may be appointed, in the prescribed manner, by virtue of their office, or by nomination, or by election, or some by one and some by any other of such methods.

(*3*) Not less than two-fifths of the members of a committee shall be persons other than salaried officers of the Government.

(*4*) Every appointment of a member shall be notified in the official Gazette.

Rules regarding term of office, wards, class-representation and elections of committees.

7. (*1*) The Local Government may make rules regarding—

(*a*) the term of office of members of committees;

(*b*) the division of any municipality into wards;

(*c*) the number of representatives to be appointed for each ward, and the manner of their appointment, whether by virtue of their office,

or

or by nomination, or by election, or some by one and some by any other of such methods;

(*d*) the provision, if any, to be made for the special representation of any classes of the community;

(*e*) the qualifications of electors and of candidates for election;

(*f*) the registration of electors;

(*g*) the nomination of candidates, the time of election and the mode of recording votes; and

(*h*) any other matters regarding the system of representation and election.

(*2*) The Local Government may, in making such rules, direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

Incorporation of committee.

8. Every committee shall be a body corporate by the name of the municipal committee of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules under section 129, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Appointment of president and vice-president.

9. (*1*) There shall be a president and vice-president of every committee.

(*2*) The Local Government may appoint the president or vice-president, or both of them, or may authorize any committee to elect its president or vice-president, or both of them, subject to such rules as may be prescribed in this behalf.

(*3*) The election of a president or vice-president shall not be valid until it has been confirmed by the Local Government and has been notified in the official Gazette.

(*4*) A

(*4*) A president and vice-president shall hold office for such term as may be prescribed.

(*5*) When a person not already a member of the committee is appointed or elected president or vice-president, he shall, notwithstanding anything in the foregoing sections, become a member of the committee by virtue of his appointment or election, and shall continue to be a member so long as he holds office as president or vice-president.

Removal of president, vice-president and members of committee.

10. The Local Government may, at any time, remove the president or vice-president or any other member of a committee—

(*a*) if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be the president or vice-president or a member of the committee;

(*b*) if he, without an excuse sufficient in the opinion of the Local Government, absents himself for more than three consecutive months from the meetings of the committee or of a sub-committee appointed under section 19;

(*c*) if his continuance in office is, in the opinion of the Local Government, undesirable in the interests of the public or the municipality.

Conduct of Business.

Ordinary and special meetings.

11. (*1*) A meeting of a committee shall be either ordinary or special.

(*2*) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules thereunder to be transacted at a special meeting.

Time for holding meetings.

12. (*1*) A committee shall meet for the transaction of business at least once in every month at such time

time as may, from time to time, be fixed by bye-laws under section 17.

(*2*) The president or, in his absence, the vice-president may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or a special meeting at any other time.

Chairman of meeting.

13. (*1*) At every meeting of a committee the president, if present, shall preside as chairman.

(*2*) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting, and the vice-president is present, the vice-president shall preside as chairman.

(*3*) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Quorum.

14. (*1*) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the committee.

(*2*) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members of the committee as may, from time to time, be fixed by bye-laws under section 17, but shall be not less than three:

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Vote of majority decisive.

15. Except as otherwise provided by this Act or by rules or bye-laws thereunder, all questions which come before any meeting of a committee shall be decided by a majority of the votes of the members present,

present, and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Record and publication of proceedings.

16. (*1*) Minutes of the proceedings at each meeting of a committee shall be recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in the manner prescribed, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the municipality.

(*2*) A copy of every resolution passed by a committee at a meeting shall, within six days from the date of the meeting, be forwarded to the Deputy Commissioner of the district.

Bye-laws for conduct of business.

17. (*1*) Every committee may, from time to time, at a special meeting, with the previous sanction of the Local Government, make bye-laws consistent with this Act and the rules thereunder for regulating—

(*a*) the time and place of its meetings;

(*b*) the conduct of its business;

(*c*) the quorum necessary for the transaction of business at ordinary meetings;

(*d*) the division of duties among the members of the committee;

(*e*) the duties, salaries, appointment, suspension, fining and removal of the officers and servants of the committee;

(*f*) the persons by whom receipts may be granted on behalf of the committee for money received under this Act; and

(*g*) all other similar matters.

(*2*) In the case of such officers and servants as may be prescribed, all orders of a committee fining or removing an officer or servant shall be appealable to the Deputy Commissioner.

Joint Committees.

Joint committees.

18. (*1*) A committee may, from time to time, concur with any other committee, or with a district council, or with an independent local board, or with a cantonment authority, or with more than one such committee, council, board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee and in delegating to any such joint committee any power which might be exercised by either or any of the committees, councils, boards or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

(*2*) If any difference of opinion arises between committees, councils, boards or authorities acting under this section, the decision thereon of the Commissioner of the division if the areas under the committees, councils, boards or authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Sub-committees.

Sub-committees.

19. (*1*) With the previous sanction of the Local Government, a committee may, from time to time, appoint the members appointed for any one or more wards to be a sub-committee for the management of the ward or wards, and may delegate to the sub-committee all or any of the powers of the committee to be exercised within the ward or wards subject to such conditions as may be prescribed.

(*2*) The sub-committee shall, if necessary, from time to time appoint in the manner prescribed one of its members to be chairman of the sub-committee.

Officers

Officers and Servants.

Appointment of secretary

20. (*1*) Every committee shall, from time to time, at a special meeting and subject to the approval of the Local Government, appoint one or more of its members, or, with the sanction of the Local Government, any other person or persons, to be its secretary or secretaries, and may, at a like meeting and subject to the like approval, remove any person so appointed.

(*2*) When a member of the committee is appointed to be secretary, he shall receive no remuneration in respect of his services. In other cases the committee may, with the previous sanction of the Local Government, assign to a secretary such salary as the committee thinks fit.

(*3*) Every sub-committee may, from time to time, appoint and remove its secretary in the like manner and subject to the like approval and with the like sanction as provided in the case of a committee by sub-section (*1*), and the provisions of sub-section (*2*) shall apply to a secretary of a sub-committee.

Employment of other officers and servants.

21. Subject to the other provisions of this Act, and to such rules as the Local Government may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a committee may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Power to prevent extravagance in establishments.

22. If, in the opinion of the Commissioner of the division, the number of persons employed by a committee as officers or servants, or whom the committee propose to employ as such, or the remuneration assigned by the committee to those persons or any of them, is excessive, the committee shall, on the requirement

requirement of the Commissioner, reduce the number of those persons or the remuneration, as the case may be:

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of Government officials serving committees.

23. In the case of a Government official a committee may—

(*1*) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the Civil Service Regulations for the time being in force; and

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the committee, make a contribution on account of his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of others.

24. In the case of an officer or servant not being a Government official, a committee may, with the previous sanction of the Local Government,—

(*1*) grant him leave-allowances and, if he is not entitled to pension or if his monthly pay be less than ten rupees, a gratuity; and

(*2*) if empowered in this behalf by the Local Government,—

(*a*) subscribe on his behalf for pension or gratuity under the rules of the Civil Service Regulations for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Civil Service Regulations for the time being in force, the officer or servant would be entitled if the service had been service under Government.

Contracts.

Contracts.

Authority to contract.

25. (*1*) A committee may delegate to one or more of its members or to a secretary the power of entering on its behalf into any particular contract whereof the value or amount does not exceed two hundred rupees or into any class of such contracts.

(*2*) A contract whereof the value or amount exceeds two hundred rupees shall not be entered into until it has been sanctioned by the committee at a meeting.

Mode of entering into contracts.

26. (*1*) Every contract made by or on behalf of a committee whereof the value or amount exceeds twenty rupees shall be in writing.

(*2*) Every such contract shall be signed by the president or vice-president and a secretary:

Provided that the committee may delegate to one or more of its members or to a secretary the power of signing any contracts which he or they is or are empowered to enter into under section 25, sub-section (*1*).

(*3*) If a contract to which this section applies is entered into otherwise than in conformity therewith, it shall not be binding on the committee.

Privileges and Liabilities.

Bar of suit in absence of notice.

27. (*1*) No suit shall be instituted against a committee or any of its officers or any person acting under its direction for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of a committee, delivered or left at its office and, in the case of an officer or person, delivered to him or left at his office or usual place of abode, stating the cause of action, the name and place of abode of the intended plaintiff and the relief which he claims.

(*2*) Unless

(*2*) Unless service of such notice be proved the Court shall dismiss the suit.

(*3*) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.

(*4*) If it is proved to the satisfaction of the Court that before the suit was instituted tender of sufficient amends had been made to the plaintiff, the plaintiff shall not recover his costs or anything beyond the amount of such tender, and shall defray the costs of the defendant in the suit.

(*5*) This section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877. I of 1877.

Liability of members for loss, waste or misapplication.

28. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to, or under the control of, the committee, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation for the same may be instituted against him by the committee with the previous sanction of the Commissioner of the division, or by the Secretary of State for India in Council.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

Taxes which may be imposed.

29. Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a committee may, for the purposes of this Act, impose, with the sanction hereinafter specified in each

each case and in the manner prescribed by section 30, any of the following taxes, namely :—

(*1*) with the previous sanction of the Local Government,—

(*a*) a tax on houses, buildings or lands situate within the municipality, not exceeding seven and a half per centum of the gross annual letting value of the houses, buildings or lands ;

(*b*) a tax on persons occupying houses, buildings or lands within the municipality according to their circumstances and property within the municipality ;

(*c*) a tax on persons exercising any profession or art, or carrying on any trade or calling, in the municipality ;

(*d*) a tax on all or any vehicles or animals used for riding, driving, draught or burden when such vehicles or animals are kept within the municipality ;

(*e*) a tax on vehicles and animals used as aforesaid entering the municipality, and on boats moored therein ;

(*f*) an octroi on goods or animals brought within the municipality for consumption or use therein ;

(*g*) market-dues on dealers using any building, structure, market, bázár or ganj belonging to or under the control of the committee, or exposing goods for sale in any place belonging to the Government or to the committee or under its control ;

(*h*) fees on the registration of cattle sold within the municipality ;

(*i*) a latrine or conservancy cess upon private latrines, premises or compounds cleansed by municipal

municipal servants, or a cess for the use of public latrines; and

(*j*) a water-rate when water is supplied by the committee:

(*2*) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

Procedure in imposing taxes.

30. (*1*) A committee may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

(*2*) When a resolution has been passed under sub-section (*1*) the committee shall publish in the manner prescribed a notice defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(*3*) Any inhabitant of the municipality objecting to the proposed tax may, within a month from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take his objection into consideration.

(*4*) If no objection is submitted within the said period of a month under sub-section (*3*), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the committee may forward its proposals to the Local Government with the objections, if any, which have been submitted as aforesaid.

(*5*) The Local Government on receiving proposals under sub-section (*4*) may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(*6*) When the Local Government sanctions any proposals which, under section 29, clause (*2*), require the further sanction of the Governor General in Council,

cil, it shall submit those proposals to the Governor General in Council, with the objections, if any, received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of the committee have been sanctioned by the Local Government or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with those proposals from such date as may be sanctioned by the Local Government.

Tax not invalid for defect of form.

31. A tax imposed under this Act shall not be invalid for defect of form, and, when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

Taxes when payable.

32. Any tax imposed under this Act and payable periodically shall be payable on such dates and in such instalments, if any, as the committee, with the previous sanction of the Local Government, may, by rule, from time to time direct.

Power of committee to abolish or reduce tax.

33. A committee, by a resolution passed at a special meeting and confirmed by the Local Government, may abolish or reduce any tax imposed under this Act or suspend the operation of any tax within any part of the municipality for any specified period.

Power of Local Government to abolish or reduce tax.

34. For reasons to be recorded in writing the Local Government may exercise the powers conferred on a committee by the last foregoing section.

Recovery of taxes.

35. (*1*) Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

(*2*) If

(*2*) If the arrear is due in respect of immoveable property, it shall, subject to any claim on behalf of Her Majesty, be a first charge on the property, and shall be recoverable, on application made in this behalf by the committee to the Deputy Commissioner of the district, as if the property were land assessed to land-revenue and the arrear were an arrear of such revenue due thereon:

Provided that nothing in this sub-section shall authorize the arrest of a defaulter.

Municipal Fund and Property.

Constitution of municipal fund.

36. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(*a*) all sums received by or on behalf of the committee;

(*b*) all fines recovered from persons convicted of offences committed within the municipality against this Act or the rules thereunder or against section 34 of Act V of 1861 (*for the Regulation of Police*) or against Act III of 1867 (*to provide for the punishment of public gambling and the keeping of common gaming-houses*);

(*c*) the balance (if any) standing at the commencement of this Act at the credit of the municipal fund under the control of the committee.

Application of fund.

37. (*1*) The committee shall set apart and apply annually out of the municipal fund—

(*a*) *first*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(*b*) *secondly*, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions

tions as are referred to in sections 23 and 24, and such sum as may be required for the maintenance of a police-establishment under Chapter IV;

(*c*) *thirdly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments;

(*d*) *fourthly*, the cost of the construction and maintenance of buildings for the offices of the committee.

(*2*) Subject to the charges specified in sub-section (*1*) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the limits of the municipality, and, with the sanction of the Commissioner of the division, to the payment of the like charges and expenses outside those limits when such application of the fund is for the benefit of the inhabitants of the municipality, namely:—

(*a*) the construction, maintenance, improvement, cleansing and repair of streets and public bridges, embankments, drains, latrines, tanks and water-courses;

(*b*) the watering and lighting of the streets or any of them;

(*c*) the construction, establishment and maintenance of schools, hospitals and dispensaries, and

and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, sarais, poor-houses, markets, encamping-grounds, recreation-grounds, gardens, parks, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;

(*d*) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums and other educational or charitable institutions;

(*e*) the training of teachers and the establishment of scholarships;

(*f*) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;

(*g*) the supply, storage and preservation from pollution of water for the use of men or animals;

(*h*) the planting and preservation of trees;

(*i*) the taking of a census, and the registration of births, marriages and deaths;

(*j*) public vaccination and any other sanitary measure;

(*k*) the holding of fairs and industrial exhibitions; and

(*l*) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants.

Custody and investment of municipal fund.

38. (*1*) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

(*2*) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be deposited

deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(*3*) A committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and proceeds of the sale of the same shall be credited to the municipal fund.

Vesting of public property in committee.

39. (*1*) All streets, roads and bridges over which the public have a right of way, all tanks, wells, ghats, channels, sewers and drains within the municipality, not being private property or specifically excepted by an order of the Local Government, together with the pavements, stones and other materials thereof, and all erections, materials, implements and other things provided therefor, shall vest in and belong to the committee and shall be held and applied by it for the purposes of this Act.

(*2*) The Local Government may, by notification in the official Gazette, direct that any property which has vested under sub-section (*1*) in the committee shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested, and the Local Government may pass such orders as it thinks fit regarding the disposal and management of such property.

CHAPTER IV.

MUNICIPAL POLICE.

Police-establishment.

40. (*1*) Every committee shall, unless it is relieved of

of this obligation by the Local Government, maintain a sufficient police-establishment for police requirements within municipal limits and for the performance of the duties imposed on the committee by this Act.

(*2*) Subject to the provisions of the Cantonments Act, 1889, the establishment maintained under sub-section (*1*) shall, as the committee with the approval of the Local Government may, from time to time, determine, be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities and pensions, as the committee may, from time to time, after consultation with the District Magistrate and the Inspector General of Police, and subject to the final decision of the Local Government, direct. XIII of 1889.

Relief of committee from police-charges.

41. (*1*) The Local Government may relieve any committee of the whole or a part of the cost of the police-establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that, in consideration of such relief, the committee shall pay periodically a sum not exceeding the amount thereof, or undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of the relief.

(*2*) When a committee is relieved under this section of the whole or a part of the cost of the police-establishment, the Local Government shall maintain such police-establishment as it considers necessary, and, subject to the provisions of the Cantonments Act, 1889, the establishment so maintained may be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other. XIII of 1889.

42. (*1*) If

Appointment, liabilities and duties of municipal watchmen.

42. (*1*) If the establishment maintained under this Chapter is wholly or in part a body of watchmen, the watchmen shall—

(*a*) be under the orders of the District Superintendent of Police subject to the general control of the District Magistrate;

(*b*) be appointed and promoted, and be liable to dismissal, suspension, reduction or fine, under such rules as the Local Government may make in this behalf;

(*c*) perform such duties as the Local Government may, subject to the provisions of this Act, direct; and

(*d*) possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities and be liable to the same penalties as if they were police-officers enrolled under Act V of 1861.

(*2*) Any person obstructing any such watchman in the discharge of his duties may be arrested without warrant by a police-officer or by any such watchman.

Duties of municipal police enrolled under Act V of 1861.

43. If the establishment maintained under this Chapter or any portion of such establishment is part of the general police-force, the Local Government may, notwithstanding anything in Act V of 1861 or in any other Act for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

Police-protection at fairs.

44. When special police-protection is, in the opinion of the Local Government, requisite on the occasion of any fair, agricultural show or industrial exhibition managed by a committee, or any religious ceremony or festival held within the municipality, the Local Government may provide such protection, and the committee shall pay the whole charge thereof

or

or such portion of the charge as the Local Government may consider equitably debitable to it.

CHAPTER V.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

Power to acquire land for building-sites adjoining new streets.

45. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Power to close streets.

46. The committee may close temporarily any street or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose, and may divert, discontinue or permanently close any street vested in the committee and sell the land or such part thereof as is not required for the purposes of this Act.

Power to permit temporary occupation of streets or land.

47. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building-materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

Power to attach brackets for lamps.

48. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Names of streets and

49. The committee at a meeting may cause a name to be given to any street, and to be affixed on any building

building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered. numbers of buildings.

50. The committee at a meeting may direct that, within certain limits, to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials unless with the permission of the committee in writing; and the committee may, by notice, require any person who has disobeyed any such direction to remove or alter as it may think fit the roofs or walls so made or renewed. Roofs and external walls not to be made of inflammable materials.

51. (*1*) If any building or part of a building projects beyond the front of the building on either side thereof, or beyond the regular line of a street, either existing or determined on for the future, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down or has fallen down, require by notice the building or part, when being re-built, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee: Power to regulate line of buildings.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(*2*) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

52. (*1*) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to Notice of new buildings.

be

be laid, and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent with this Act which may be given by the committee within one month after receiving such notice, either prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely :—

(*a*) free passage or way in front of the building;

(*b*) space to be left about the building to secure free circulation of air and facilitate scavenging;

(*c*) ventilation and drainage;

(*d*) level and width of foundation, level of lowest floor and stability of structure; and

(*e*) the line of frontage with neighbouring buildings, if the building abuts on a street:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the re-erection of any building or of the committee requiring any land belonging to him to be added to the street.

(*2*) If any such building is erected or re-erected, wholly or in part, without such notice being given, or without the submission of particulars as aforesaid when required, or in contravention of the lawful directions of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression "erect any building" includes erecting any wall and all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion

sion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

Removal of projections and obstructions.

53. (*1*) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into or encroaching on the street or into or on any drain, sewer or aqueduct therein.

(*2*) The committee may by notice require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof, if the same overhangs or projects into or encroaches on any street or projects into or encroaches on any drain, sewer or aqueduct in the street:

Provided that, in the case of a projection, encroachment or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(*3*) The committee may give written permission to the owners or occupiers of buildings in streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

Bathing and Washing Places.

Bathing and washing places.

54. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipality; and may, by public notice, prohibit bathing, or washing animals

animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and all other acts not so permitted which may render water in public places foul or unfit for use or may cause inconvenience or annoyance to persons using the bathing or washing places.

Deposit of Offensive Matter and Slaughter-places.

Removal and deposit of offensive matter.

55. The committee may fix places within or, with the approval of the Deputy Commissioner of the district, beyond the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Places for slaughter of animals.

56. (*1*) The committee may, with the approval of the Deputy Commissioner of the district, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to, or are under the control of, the committee, charge rent or fees for the use of the same.

(*2*) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(*3*) When any such place has been fixed, no person shall slaughter for sale any such animal at any other place within the municipality.

Slaughter of animals for other purposes.

57. Whenever it appears to the Deputy Commissioner of the district to be necessary for the preservation of the public peace or order, he may, with the

the previous sanction of the Commissioner of the division, prohibit or regulate, by notification published in the manner prescribed, the slaughter within the limits of a municipality of animals, or of any specified description of animals, for purposes other than sale, and prescribe the mode and route in and by which meat shall be conveyed from the place where such animals are slaughtered.

Burial and Burning Places.

Powers in respect of burial and burning places.

58. (*1*) The committee may by public notice order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood to be closed from a date to be specified in the notice, and shall in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(*2*) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(*3*) No burial or burning ground, whether public or private, shall be made or formed, after the commencement of this Act, without the permission in writing of the committee.

Removal of corpses.

59. The committee may by public notice prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

Inflammable materials.

60. The committee may, where it appears to it to be necessary for the prevention of danger to life or property,

property, by public notice prohibit all persons from stacking or collecting dry grass, straw or other inflammable materials, or placing mats or thatched huts or lighting fires, in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

Inspection of privies, drains and cesspools.

61. (*1*) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice to the occupier or, if there is no occupier, to the owner of any building or land in which any privies, drains or cesspools are situate, inspect any such privies, drains or cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains or cesspools.

(*2*) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the building or land; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

Power to enter and inspect buildings.

62. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier or, if there is no occupier, to the owner of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

Other powers of entry on buildings or land.

63. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier or, if there is no occupier, to the owner

owner of any building or land, at any time between sunrise and sunset—

(*a*) enter on and survey and take levels of any land;

(*b*) enter, inspect and measure any building for the purpose of valuation;

(*c*) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains or of executing or repairing any work which the committee is by this Act empowered to execute or maintain.

Power to enter for discovery of animals or vehicles liable to taxation.

64. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any animal or vehicle which is liable to taxation under this Act and for which a license has not been duly taken out.

Power to inspect places for sale of food or drink, &c., and to seize unwholesome articles exposed for sale.

65. (*1*) The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, animal or drug which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or, if the owner or the person in whose possession the same is found consents, may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may

remove

remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for inquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

(*2*) If the committee, or any person authorized by it in this behalf, applies to purchase any article of food or drink exposed for sale, and tenders the price for a quantity such as may be reasonably requisite for the purpose of analysis, the person exposing the same for sale shall be bound to sell such quantity.

Power of entry for purpose of scavenging.

66. (*1*) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any building or land, or of any privy, drain, cesspool or other receptacle for offensive matter pertaining to any building or land with the consent of the occupier of the building or land or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(*2*) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

Precautions to be observed in entering dwelling.

67. When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and, before any apartment in the actual occupancy of any woman, who according to custom does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes,

Water-pipes, Privies and Drains.

Troughs and pipes for rain-water.

68. The committee may by notice require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to cause injury to the street or inconvenience to persons passing along the street.

Provision of privies or cesspools.

69. (*1*) The committee may by notice require the owner of any building to provide, in such manner as the committee directs, any privy or cesspool, or additional privies or cesspools, which should in the opinion of the committee be provided for the building.

(*2*) The committee may by notice require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order and to be daily cleaned.

(*3*) The committee may by notice require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trap-door of a privy opening on to any street or drain.

Repair and closing of privies, drains and cesspools.

70. (*1*) The committee may by notice require the owner or occupier of any building or land to repair or alter or put in good order any privy, drain or cesspool, or to close any cesspool belonging thereto.

(*2*) The committee may by notice require any person who constructs any new privy, drain or cesspool without its permission in writing or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds or opens any privy, drain or cesspool which the committee has ordered to be removed or stopped up or not to be made,

made, to remove the privy, drain or cesspool, or to make such alteration therein as the committee thinks fit.

Unauthorized buildings over drains.

71. The committee may by notice require any person who without its permission in writing newly erects or rebuilds any building over any public sewer, drain, culvert, water-course or water-pipe vested in the committee to pull down or otherwise deal with the building as it thinks fit.

Removal of drains, latrines or cesspools near any source of water-supply.

72. The committee may by notice require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use to remove or close the same within one week.

Power to require drainage of unwholesome tanks.

73. The committee may by notice require the owner or occupier of any building or land to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive to the neighbourhood:

Provided that, if for the purpose of effecting under this section any drainage it is necessary to acquire any land not belonging to such owner or occupier or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

Power to require buildings, wells, tanks or excavations to be secured.

74. If any building, or any well, tank or other excavation, is for want of sufficient repair, protection or enclosure dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may by notice require the owner or occupier thereof to repair, protect or enclose the same; and, if it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith

with take such steps as are necessary to avert the danger.

Power to require building, wall or structure in ruinous or dangerous state to be removed or repaired.

75. If any building, wall or structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, it may by notice require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure or thing affixed thereto as the committee considers necessary for the public safety; and, if it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Buildings and Grounds in Insanitary Condition.

Power to require owner to clear away noxious vegetation.

76. The committee may by notice require the owner or occupier of any land to clear away and remove any thick or noxious vegetation or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

Power to require owner to trim hedges and trees bordering on street.

77. The committee may by notice require the owner or occupier of any land to cut or trim, within three days, the hedges standing on the land and bordering on any street, or the branches of trees growing on the land and overhanging any street and obstructing the same or causing danger thereto, or so overhanging any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

Power to require filthy buildings or land to be cleaned.

78. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may by notice require him to cleanse the same or otherwise put it in a proper state within twenty-four hours.

Power to prohibit use for human habitation of buildings unfit for such use.

79. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or for other sufficient reason, the committee may by notice prohibit

prohibit the owner or occupier of the building from using it for human habitation or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

80. The committee may by notice require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time specified in the notice.

Power to prohibit cultivation, use of manure or irrigation injurious to health.

81. (*1*) If the Sanitary Commissioner reports that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, the Local Government may, by notification in the official Gazette, prohibit the cultivation of the crop, the use of the manure or the irrigation so reported to be injurious, or regulate it by imposing such conditions as may prevent the injury.

(*2*) When on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

Offensive and Dangerous Trades.

Regulation of offensive and dangerous trades.

82. (*1*) The owner or occupier of every place situate within the municipality and used for any of the following purposes, namely:—

melting tallow; or

boiling

boiling bones, offal or blood; or

as a soap-house, oil-boiling house, dyeing-house or tannery; or

as a brick-kiln, pottery or lime-kiln; or

as any other manufactory or place of business from which offensive or unwholesome smells arise; or

as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material; or

as a store-house for kerosine, petroleum, naptha or any inflammable oil, spirit or explosive substance;

shall register the same in a book to be kept by the committee for the purpose.

(*2*) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(*3*) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

(*4*) The committee may charge fees for such licenses, and may impose such conditions in respect thereof as it may think necessary.

Power to prohibit such trades.

83. If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last foregoing section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the committee may by notice require the occupier of the place to discontinue the use thereof, or to use the place in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

Power

Power to make and enforce Rules.

Power to make rules.

84. (*1*) A committee may, from time to time, at a special meeting, make rules consistent with this Act—

(*a*) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the committee;

(*b*) for prohibiting or controlling the establishment or maintenance of markets, sarais, halting-places and slaughter-houses, and inspecting and regulating the same and any places of public entertainment and resort;

(*c*) for licensing, controlling and regulating the practice of brokers, measurers and weighmen practising their calling in public places within the municipality;

(*d*) for prescribing the standard weights and measures to be used within the municipality;

(*e*) for controlling and regulating the use and management of burial and burning grounds;

(*f*) for prescribing the means by which the owner or occupier of any place which is a factory within the meaning of the Indian Factories Act, 1881, is to provide for the consumption of the smoke of any chimney or furnace so as to prevent the smoke from being a nuisance to any person in the neighbourhood; XV of 1881.

(*g*) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

(*h*) for

(*h*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads where those conveyances, animals or persons are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(*i*) for securing a proper registration of births, marriages and deaths;

(*j*) for the proper regulation of buildings let in lodgings or occupied by more than one family;

(*k*) for the supervision and regulation of public cisterns, water-standards, wells, tanks, springs or other sources of public water-supply; and, when water is supplied from a public source to any private premises, for regulating and controlling such supply;

(*l*) for prohibiting the offering of meat or any specified description of meat for sale except at a shop or stall or in a market-place;

(*m*) for controlling and regulating the duties of sweepers employed by the committee and prescribing the conditions on which they may withdraw from employment;

(*n*) when the collection of an octroi-tax has been sanctioned, for fixing octroi-limits for the purposes of that tax; and,

(*o*) generally, for carrying out the purposes of this Act.

(*2*) In making any rule under this section a committee may direct that a breach of it shall be punished with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with further fine

fine which may extend to five rupees for every day after the first during which the breach continues.

(*3*) A rule under this section shall not come into force until it has been confirmed by the Local Government and published for the prescribed time and in the prescribed manner.

(*4*) Notwithstanding anything in the foregoing portion of this section, the committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules under sub-section (*1*) in respect of any vehicles to which that Act applies. XIV of 1879.

Power to prohibit commission of public nuisances.

85. Subject to any orders which the Local Government may make in this behalf, a committee may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance under the Indian Penal Code. XLV of 1860.

Powers as to conditional orders in respect of certain acts and omissions.

86. (*1*) The Local Government may invest, within the limits of the municipality, a committee with the powers of a District Magistrate as described in section 133 of the Code of Criminal Procedure, 1882, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under rules made in exercise of the power conferred by section 84, sub-section (*1*), clauses (*a*), (*b*), (*e*), (*j*) and (*k*). X of 1882.

(*2*) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure, 1882, shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers:

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words "before himself or some other Magistrate of the first or second class" the words "before the District Magistrate or some Magistrate of the first or second class appointed by him in this behalf" were substituted.

(*3*) The

(*3*) The Local Government may, whenever it thinks fit, withdraw the powers with which it has under this section invested a committee.

Delegation of powers under sections 85 and 86.

87. A committee may, at a special meeting, delegate to one or more sub-committees of its members any of the powers which are vested in the committee by section 85, or with which the committee may have been invested under section 86.

Supplemental.

Execution of acts required to be done by any notice.

88. (*1*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*2*) When the owner or occupier of any building or land fails to comply with the terms of any notice under this Chapter requiring him to do any act in, upon or in respect to that building or land, the committee may, after six hours' notice, cause the act to be done by its officers.

Recovery of costs of execution.

89. (*1*) Where the owner or occupier of property is required under this Act by the committee to execute any work and makes default in complying with the requisition, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(*2*) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent due or from time to time accruing due from him to the owner of the property in respect of which the payment is made, or may otherwise recover such sum from the owner.

(*3*) An occupier shall not be required to pay under sub-section (*2*) any greater sum than the amount of rent which is for the time being due from him

him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent which was due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(*4*) All money recoverable by a committee under this section may be recovered either by suit, or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(*5*) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of municipal fund.

90. (*1*) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any power vested in the committee, its officers or servants, under this Act, and shall, subject to the other provisions of this Act, make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(*2*) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land-acquisition Act, 1870, sections 3, 8 to 42, 51 to 53, and 56 to 59, so far as they can be made applicable. X of 1870.

91. (*1*) Any

Appeals against certain orders of committee.

91. (*1*) Any person aggrieved by any order made by a committee under the powers vested in it by section 58, 79 or 83 may appeal within thirty days from the date thereof to the Deputy Commissioner of the district; and no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner of the division or other officer empowered by the Local Government in this behalf.

(*2*) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(*3*) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final:

Provided that the order appealed against shall not be confirmed, set aside or modified until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VI.

Offences and Penalties.

Penalty for depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.

92. Whoever, without the permission in writing of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or public place, or into any public sewer or drain or any drain communicating therewith, shall be punished with fine which may extend to twenty rupees.

Penalty for causing or allowing sewage to flow upon a public place.

93. Whoever, without the permission in writing of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter, to

to flow, drain or be put upon any street or public place or into any sewer or drain not set apart for the purpose, shall be punished with fine which may extend to twenty rupees.

Penalty for non-removal of filth.

94. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punished with fine which may extend to fifty rupees.

Penalty for making or altering drains without authority.

95. Whoever, without the permission in writing of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the channels, sewers or drains vested in the committee, shall be punished with fine which may extend to fifty rupees.

Penalty for making or keeping latrines near any source of water-supply.

96. Whoever makes, without the permission in writing of the committee, or keeps for a longer time than one week after notice to remove or close issued under section 72, any drain, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punished with fine which may extend to twenty rupees, and, when a notice has issued, with further fine which may extend to five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

Penalty for keeping animals so as to be injurious to health.

97. Whoever keeps any swine in disregard of any orders which the committee may give to prevent them from becoming a nuisance, or keeps any other animals so as to be injurious to health or to become a nuisance, shall be punished with fine which may extend to twenty rupees, and with further fine which may extend

extend to five rupees for every day after the first during which the offence is continued.

Penalty for feeding animals on deleterious substances.

98. Whoever feeds or allows to be fed on deleterious substances, filth or refuse of any kind any animal which is kept for dairy purposes or may be used for food shall be punished with fine which may extend to fifty rupees.

Penalty for driving vehicles without proper lights.

99. Whoever drives any vehicle of any kind after dark in any street unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary shall be punished with fine which may extend to twenty rupees.

Penalty for driving vehicles without proper means of control.

100. Whoever drives any vehicle without having the proper means of controlling the animal harnessed therein shall be punished with fine which may extend to twenty rupees.

Penalty for discharging fire-arms.

101. Whoever discharges fire-arms or lets off fireworks or fire-balloons, or flies kites, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punished with fine which may extend to twenty rupees.

Penalty for non-removal of elephants or camels on approach of a horse or bullock-cart.

102. Whoever, being an elephant-driver or camel-driver, omits on being requested to do so to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, or of any vehicle drawn by bullocks, shall be punished with fine which may extend to twenty rupees.

Penalty for taking elephants along streets.

103. Whoever, contrary to any orders of the committee, takes an elephant along a street shall be punished with fine which may extend to twenty rupees.

Penalty for beating drum or sounding musical instrument.

104. Whoever, contrary to any orders of the committee made with the sanction of the Deputy Commissioner of the district, beats any drum or sounds any musical instrument, so as to cause annoyance to

to the public, shall be punished with fine which may extend to twenty rupees.

Penalty for suffering dogs to be at large.

105. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any street or public place, shall be punished with fine which may extend to twenty rupees.

Penalty for altering, obstructing or encroaching upon streets.

106. Whoever, without the permission in writing of the committee, alters, obstructs or encroaches upon any street, public sewer, drain or water-course, or displaces, takes up or alters the pavement or other materials or the fences or posts of any street or public place, or deposits building-materials or makes any hole or excavation on or in any street, shall be punished with fine which may extend to fifty rupees.

Penalty for quarrying, blasting, cutting timber or building.

107. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by, or dwelling or working in the neighbourhood, shall be punished with fine which may extend to fifty rupees.

Penalty for picketing animals and collecting carts.

108. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any kind or as a place of encampment, or causes or permits animals to stray, shall be punished with fine which may extend to twenty rupees.

Penalty for making or selling food when suffering from disease.

109. Whoever, when suffering from any infectious or contagious disease, makes or offers for sale any article of food for man shall be punished with fine which may extend to two hundred rupees.

Penalty for disturbing direction-posts or lamps.

110. Whoever, without being authorized by the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light maintained by the committee in any street or public place, shall be punished

punished with fine which may extend to twenty rupees.

Penalty for destroying or defacing names or numbers.

111. Whoever destroys, pulls down or defaces any name or number put up under section 49 by order of the committee, or puts up any different name or number, shall be punished with fine which may extend to twenty rupees.

Penalty for slaughtering for sale any animal contrary to section 56.

112. Whoever contrary to the provisions of section 56 slaughters for sale any animal at any place within the municipality other than the place fixed under that section shall be punished with fine which may extend to twenty rupees.

Penalty for slaughtering animal or conveying meat contrary to prohibition, regulation or order.

113. Whoever slaughters any animal or conveys meat from the place of slaughter contrary to any prohibition, regulation or order under section 57 shall be punished with fine which may extend to two hundred rupees.

Penalty for burying or burning corpse contrary to section 58.

114. If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of section 58, or after the date fixed thereunder for closing the same, he shall be punished with fine which may extend to fifty rupees.

Penalty for carrying corpses by prohibited routes or so as to cause annoyance.

115. Whoever carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public shall be punished with fine which may extend to twenty rupees.

Penalty for selling article of food or drink of a nature different from the article demanded.

116. (*1*) Whoever sells to the prejudice of any purchaser any article of food or drink for the consumption of man which is not of the nature, substance or quality of the article demanded by such purchaser shall be punished with fine which may extend to one hundred rupees.

(*2*) The provisions of sub-section (*1*) shall not apply in the following cases, namely:—

(*a*) when any matter or ingredient not injurious to health

health has been added to the food or drink, in order to make the food or drink fit, as an article of commerce, for carriage or consumption, and not with intent fraudulently to increase the bulk, weight or measure of the food or drink or to conceal the inferior quality thereof;

(*b*) when the food or drink is unavoidably mixed with some extraneous matter in the process of collection or preparation.

(*3*) The provisions of this section apply to the purchase under section 65 of any article for the purpose of analysis.

Penalty for possession of food, drink or animal unfit for consumption.

117. If the owner or the person in possession of any food or drink or animal which is seized under section 65, sub-section (*1*), does not consent to the destruction or disposal of the same, the Magistrate, if it is proved that the food or drink or animal was intended for the consumption of man and is unfit therefor, may order the food or drink or animal to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for the consumption of man, and may direct that such owner or person shall be punished with fine which may extend to one hundred rupees:

Provided that a person who is in possession of food or drink or of an animal as a carrier or bailee thereof shall not be liable to a fine under this section.

Penalty for refusing to sell food or drink.

118. Whoever, contrary to the provisions of section 65, sub-section (*2*), refuses to sell any article of food or drink shall be punished with fine which may extend to fifty rupees.

Penalty for cultivating, manuring or irrigating contrary to section 81.

119. If any person cultivates, uses manure or irrigates in disregard of the prohibition or conditions notified under section 81, sub-section (*1*), he shall be punished with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

120. Whoever

Penalty for using places for offensive or dangerous trades without registration or license.

120. Whoever, contrary to the provisions of section 82, uses without registration or without a license any place for any purpose mentioned in that section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Penalty for using places for offensive or dangerous trades, after prohibitory notice.

121. Whoever, after notice has been given under section 83, uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day during which the offence is continued after he has been convicted of such offence.

Penalty for disobedience to orders of committee not punishable under any other section.

122. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon the committee by the last foregoing Chapter, or any written notice lawfully issued by the committee under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Prosecution to be suspended in certain cases.

123. Any prosecution for an offence punishable under section 114, or section 121, or section 122, when the order which has been disobeyed is appealable, shall, when the Magistrate learns that an appeal has been instituted from the order which has been disobeyed,

disobeyed, be suspended pending the decision of the appeal; and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against the section.

CHAPTER VII.

CONTROL.

Control by Commissioner or Deputy Commissioner.

124. The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property situate within the limits of his division or district and occupied by any committee or joint committee, or any work in progress within those limits under the direction of a committee or joint committee;

(*b*) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within those limits;

(*c*) by order in writing require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee or joint committee as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such committee or joint committee, any observations which he may think proper in regard to the proceedings or duties of the committee.

Power to suspend action under Act.

125. (*1*) The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend within the limits of the division or district, as the case may be, the execution of any resolution or order of a committee or joint committee, or prohibit

prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

(*2*) When a Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

Extraordinary powers of Deputy Commissioner in case of emergency.

126. (*1*) In cases of emergency the Deputy Commissioner of the district may provide for the execution of any work or the doing of any act which a committee is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(*2*) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

(*3*) The Deputy Commissioner shall forthwith report to the Commissioner of the division every case in which he uses the powers conferred on him by this section.

Powers of Local Government in case of default of committee.

127. (*1*) If at any time it appears to the Local Government that a committee has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order

order in writing, fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as the Local Government may fix, to the Deputy Commissioner by the committee.

(*3*) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

128. (*1*) If at any time it appears to the Local Government that a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the official Gazette, declare the committee to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(*2*) When a committee is so superseded, the following consequences shall ensue:—

(*a*) all members of the committee shall, as from the date of the order, vacate their offices as such members;

(*b*) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons

sons as the Local Government appoints in that behalf;

(*c*) all property vested in the committee shall, during the period of supersession, vest in Her Majesty.

(*3*) On the expiration of the period of supersession specified in the order, the committee shall be re-constituted, and the persons who vacated their offices under sub-section (*2*), clause (*a*), shall not be deemed disqualified for being members.

Power of Local Government to frame forms and make rules.

129. (*1*) The Local Government may frame forms for any proceedings of a committee for which it considers that forms should be provided, and may make rules consistent with this Act—

(*a*) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same;

(*b*) as to the authority on which money may be paid from the municipal fund;

(*c*) as to the conditions on which property vested in the committee or placed under its management by the Local Government may be transferred by sale, mortgage, charge, lease, exchange or otherwise;

(*d*) as to the qualifications requisite in the case of persons appointed by the committee to offices requiring professional skill;

(*e*) as to the intermediate office or offices, if any, through which correspondence between committees and the Local Government or its officers, and representations addressed under this Act to the Local Government, are to pass;

(*f*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of committees, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(*g*) as

(*g*) as to the accounts to be kept by committees, as to the manner in which such accounts are to be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*h*) as to the preparation of estimates of income and expenditure of committees, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(*i*) as to the sanction (if any) to be required before committees incur any expenditure;

(*j*) as to the language in which the proceedings and correspondence of the committee are to be conducted and recorded;

(*k*) as to the returns, statements and reports to be submitted by committees; and,

(*l*) generally, for the guidance of committees and public officers in all matters connected with carrying out the purposes of this Act.

(*2*) In making rules under sub-section (*1*), clause (*a*), the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

General powers of Local Government and Commissioners.

130. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

CHAPTER VIII.

SUPPLEMENTAL.

Notices.

Authentication.

131. (*1*) Every notice issued by a committee under this

this Act or any rule thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president, vice-president or secretary, and may be served by being delivered to the person to whom it is addressed, or by being left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his usual place of abode or business. tion, service and validity of notices.

(*2*) If the usual place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(*3*) If the usual place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(*4*) If the usual place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(*5*) No notice issued by the committee under this Act or any rule thereunder shall be invalid for defect of form.

132. When any notice is under the provisions of this Act to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served— Mode of giving notice to owner or occupier of property.

(*a*) by delivering a written notice to some person on the property, or, if there is no person on the property to whom the notice can be delivered, by fixing it on some conspicuous part of the property; or

(*b*) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier"

of

of the property (naming it) in respect of which the notice is given, without further name or description.

Publication of public notices.

133. Evry public notice given by a committee under this Act or any rule thereunder shall be published by proclamation or in the prescribed manner.

Alteration of Limits of Municipality.

Notification of intention to alter limits of municipality.

134. The Local Government may, by notification published in the official Gazette and in the prescribed manner within the local area affected, declare its intention—

(*a*) to exclude from a municipality any local area comprised therein and defined in the notification, or

(*b*) to include within a municipality any local area situate in the vicinity thereof and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous sanction of the Governor General in Council.

Alteration of limits of municipality.

135. (*1*) Any inhabitant of a municipality or local area in respect of which a notification has been published under the last foregoing section may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within three months from the date of the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(*2*) When three months from such date have expired, and the Local Government has considered the objections, if any, which have been submitted under sub-section (*1*), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality or include it therein, as the case may be.

136. (*1*) When

Effect of exclusion of local area from municipality.

136. (*1*) When a local area is excluded under the last foregoing section from a municipality,—

(*a*) this Act, and all rules, orders, bye-laws, directions and powers made, issued or conferred under this Act, shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council, and, on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(*2*) All property vested in Her Majesty under sub-section (*1*) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

Effect of including local area in municipality.

137. When a local area is included under section 135 in a municipality, this Act, and all rules, orders, bye-laws, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

Miscellaneous.

Penalty on member, officer or servant of committee

138. (*1*) If any member, officer or servant of a committee is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with the committee,

being interested in contract made with committee.

committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code. XLV of 1860.

(*2*) A person shall not, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

Initiation of prosecutions.

139. A Court shall not take cognizance of an offence punishable only under this Act or a rule thereunder except on the complaint of the Deputy Commissioner or of the committee or of some person authorized either generally or specially by the Deputy Commissioner or the committee in this behalf.

Acquisition of land under Act X of 1870.

140. Where any building or land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land-acquisition Act, 1870, X of 1870. and, on payment by the committee of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

Procedure for making rules.

141. The power to make rules under section 7, section 84 or section 129 is subject to the condition of the rules being made after previous publication.

Power to make rules regulating conservancy of reservoir and catchment area.

142. (*1*) When the supply of water in a municipality is derived from a reservoir situate beyond the limits of the municipality, the Local Government may make rules—

(*a*) prohibiting the doing in the reservoir, or in or upon the catchment area thereof, any act by which the purity of the water or the safety of the reservoir may be impaired; and

(*b*) regulating generally the conservancy of the reservoir and the catchment area.

(*2*) The

(*2*) The Local Government may direct that the breach of any rule under sub-section (*1*) shall be punished with fine which may extend to two hundred rupees.

Saving of Act XI of 1879.

143. Nothing in this Act shall affect the Local Authorities Loan Act, 1879.

XI of 1879.

Member of committee to be municipal commissioner.

144. Every member of a committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force; and a Judge or Magistrate shall not be deemed to be a party to or to be personally interested within the meaning of section 555 of the Code of Criminal Procedure, 1882, in any prosecution for an offence punishable under this Act, or any rule thereunder, merely because he is a member of the committee by the order or with the approval of which the prosecution has been instituted.

V of 1882.

Power to except municipality from provisions of Act unsuited thereto.

145. (*1*) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by notification.

(*2*) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

Power to withdraw municipal area altogether from operation of this Act.

146. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, withdraw any municipality from the operation of this Act.

(*2*) When a notification is issued under sub-section (*1*) in respect of any municipality, this Act, and all rules, bye-laws, orders, directions and powers made,

issued

issued or conferred under this Act, shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the committee shall vest in Her Majesty, and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(*3*) All property vested in Her Majesty under sub-section (*2*) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.

Vacancies and irregularities not to invalidate proceedings.

147. Anything done or any proceedings taken under this Act shall not be questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Government of India Central Printing Office.—No. 329 L D.—28-12-89.—4,400.—A. McL.

ACT No. XIX OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th December, 1889.)

An Act to make better provision for Sanitation in Villages in the Central Provinces.

WHEREAS it is expedient to make better provision for sanitation in villages in the Central Provinces; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Central Provinces Village-sanitation Act, 1889.

(*2*) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(*3*) It shall come into force at once.

Conditions under which the provisions of this Act may be extended to a village.

2. (*1*) When the sanitary condition of a village containing not less than one hundred inhabited houses and not being a municipality is, in the opinion of the Deputy Commissioner of the district in which the village is situate, such as to be injurious to the health of the inhabitants, he may, by an order in writing, published in such manner as the Local Government may by rule prescribe, declare that the village is in an insanitary state.

(*2*) After the publication of the order the Local Government may—

(*a*) on the application of the mukaddam and ten or more other inhabitants of the village, or,

(*b*) if no such application is made within three months after the date of the publication of the order, on the application of the Deputy Commissioner,

by

[*Price one anna and six pies.*]

by notification in the official Gazette extend to the village the provisions of this Act from such date as may be specified in the notification.

Election of village-panchâyat.

3. In every village to which this Act is extended a panchâyat shall be formed, consisting of the mukaddam and such number of representatives of the village-community, not being less than four, as the Local Government may by rule prescribe, who shall be chosen by election from among the inhabitants of the village.

Powers of the panchâyat.

4. The panchâyat shall, subject to the approval of the Deputy Commissioner, determine the sum which is annually required for the following purposes:—

(*a*) the proper cleansing and conservancy of the village;

(*b*) the provision and maintenance of a supply of wholesome water for the inhabitants of the village and their cattle;

(*c*) the maintenance of the roads in the village.

Mode of raising funds.

5. (*1*) The sum determined to be necessary under the last foregoing section shall be raised by the panchâyat by an assessment on the houses and lands within the village with reference to the circumstances of, and property possessed by, the owners or occupiers of such houses and lands.

(*2*) An assessment shall not be valid until it has been sanctioned by the Local Government.

Powers of Local Government to make rules.

6. (*1*) The Local Government shall make rules—

(*a*) defining the limits of villages for the purposes of the Act;

(*b*) regulating the mode of election and the proceedings of the panchâyats, the term of office of members of a panchâyat and the circumstances under which, and the authority by whom, they may be removed;

(*c*) limiting the amount of tax and regulating its assessment, realization, safe custody and application,

application and the auditing of the accounts thereof;

(*d*) regulating the village-conservancy and defining and prohibiting public nuisances; and,

(*e*) generally, for giving effect to the purposes of this Act.

(*2*) The Local Government may, in making such rules, direct that the breach of any provision thereof shall be punished with fine which may extend to ten rupees.

(*3*) Arrears of taxes imposed under this Act may, subject to the rules, if any, made under this section, be realized by the Deputy Commissioner as arrears of land-revenue.

Withdrawal of Act.

7. The Local Government may direct that the provisions of this Act shall cease to have operation in any village from a date to be fixed by the Local Government, and may make over any moneys in the hands of the panchâyat to the district council or local board having authority under the Central Provinces Local Self-government Act, 1883.

I of 1883.

Exclusion of authority of district council and local board.

8. While the provisions of this Act are in force in any village, the authority of the district council or local board under section 9 of the Central Provinces Local Self-government Act, 1883, shall be suspended in respect of all matters made over to the management of the panchâyat.

I of 1883.

PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.—NO. 330 L. D.—19-12-89.—4,400.—A. H. D'S.

ACT No. XX OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th December, 1889.)

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows:—

Substitution of new section for section 17A, Act XXXVI, 1858.

1. For section 17A of Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*), as amended by Act XVIII of 1886 (*an Act to amend Act XXXVI of 1858*) the following shall be substituted, namely:—

"17A. In either of the following cases, namely:—

Provision for provinces having insufficient or no asylums.

(*a*) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(*b*) when it appears to the Governor General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics

[*Price one anna and three pies.*]

lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

Addition of new section after section 17B, Act XXXVI, 1858.

2. After section 17B of the said Act XXXVI of 1858 the following section shall be added, namely :—

Removal of lunatics from one asylum to another.

"17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor General in Council, to any other asylum in any part of British India."

Repeal of section 11 of Act XXXVI of 1858.

3. Section 11 of the said Act XXXVI of 1858 is hereby repealed.

Government of India Central Printing Office.—No. 331 L. D.—10-12-89.—4,400—A. E. deS.

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